

1072

No. 2875

United States
Circuit Court of Appeals

For the Ninth Circuit. 1072

Transcript of Record.
(IN TWO VOLUMES.)

CHARLES H. MOYER, as Trustee for the Western Federation of Miners, a Voluntary Unincorporated Association of Persons With Its Headquarters in the City and County of Denver, State of Colorado, CHARLES H. MOYER, C. E. MAHONEY and ERNEST MILLS as Members of the Western Federation of Miners, a Voluntary Unincorporated Association of Persons With Its Headquarters in the City and County of Denver, Colorado,

Appellants,

vs.

THE BUTTE MINERS' UNION, a Corporation,
Appellee.

VOLUME II.
(Pages 321 to 598, Inclusive.)

Upon Appeal from the United States District Court for the
District of Montana.

Filed

DEC 6 - 1916

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(Testimony of Ernest Mills.)

Q. Mr. Mills, is it not a fact that if a member does not wish—if a miner in any locality does not wish to become a member of the local, if there is a local [264] in that locality, that there is no legal means of compelling him to be a member?

Mr. GEAGAN.—We object to that as calling for a conclusion of the witness on a proposition of law, and not tending to elicit any facts.

The COURT.—I think the Court will take judicial notice there is no law compelling him.

The WITNESS.—By “a membership of several thousand strong” when I answered that the Federation was several thousand strong, or composed of several thousand, I meant several thousand members. I have a typewritten copy of my December report but have not got it here. I have a typewritten copy in the city. We issue printed quarterly reports to locals. I have not got a copy of the last report printed yet. It is just typewritten. The December reports are not printed yet. There is no special rule as to what time they should be printed. The secretary is to compile it and it is later on ordered printed and sent out to the local unions, parties interested. It is not a fact that the reason the same is not printed is that there is no money to print it.

Q. Is it not a fact that the Miners' Magazine is nothing more than a little hand-bill and pamphlet at the present time because of no funds to print it?

Mr. GEAGAN.—We object to this.

Q. (Continuing.) And that instead of issuing it in [265] appearances something after the appear-

(Testimony of Ernest Mills.)

ance of the Saturday Evening Post, once a week, that it only appears now once a month, and in that pamphlet form, because of lack of funds of the Federation?

Mr. GEAGAN.—We submit, if your honor please, that this is entirely objectionable, not tending to elicit any fact, or to the establishing or disestablishing the issues involved in the case at bar, and tending to encumber the record with irrelevant and immaterial matter; matter that we think is impertinent and scandalous under the rulings of this Court, and that it cannot aid nor assist this court in arriving at a decision with regard to the issues involved in the action as between the parties here. It is entirely improper cross-examination.

The COURT.—The objection will be sustained.

To which ruling the defendant then and there duly asked for and was allowed an exception.

The WITNESS.—The charter presented here, the charter sent and a correct copy offered in evidence here, to all intents and purposes was intended to be a reissuance of the charter that was lost or destroyed on the 13th of June.

Q. Mr. Mills, is it not a fact that the charter received on or about May 15, 1893, was a copy of a state charter, only briefly changed to meet the requirements, and contains the names on the charter of the members of the [266] Butte Miners' Union at its organization; and is it not further a fact that you asked John Sheehan if he could get ten names—delegates of the Butte Miners' Union—if you could

(Testimony of Ernest Mills.)

get ten of the names that were on the other charter?

A. The original charter had the names of the charter committee printed on it. The body of the charter was exactly the same. The difference between the body of the charter said "The Western Federation of Miners of America," and later on the names of "America" was by action of the convention knocked off.

Q. Is it not a fact that at the time of the old charter there was no forfeiture clause of the kind that is contained in the second charter, the following—is it not a fact, Mr. Mills, that these words contained on this charter were not contained in the old charter: "It is agreed that should the aforesaid union withdraw or be dissolved" substantially, or forfeit its charter, then all property, money, books, and papers shall become the property of the Western Federation of Miners? A. That was in the original charter.

The WITNESS.—I know that, because I have carefully looked over copies of the charter issued at that time. I may have seen the charter of the Butte Miners' Union, the defendant here, but I never paid any particular attention to it. I have been a member of the Federation since 1899. The Federation was six years at least in existence before I [267] knew anything about it. I did not know that at the time of the organization of the Western Federation of Miners, the Butte Miners' Union, this defendant, was the only local miners' union that owned one dollar of property. I know nothing about its financial condition at that time.

(Testimony of Ernest Mills.)

Q. And you know nothing about the organization of the Federation or where it was organized or anything about it, prior to the time you mentioned, 1899? A. I have read the records.

I read the original minutes of the original meeting and they follow very closely. They are in Butte, and I now produce them. I did not say I knew the old charter and what was in it. I simply said I was drawing the inference from the fact that I looked over the copies of the charters at that time, and assumed the charter was the same. I was unable to place W. J. Weiks and Morris on the charter I issued.

Q. Do you know that W. J. Weiks was not on the old charter, and that he was not one of the charter—

The COURT.—The new charter contains these names?

Mr. BREEN.—The first charter.

The COURT.—And the new one has not?

Mr. BREEN.—No.

The COURT.—Then the fact stands admitted that the reason he did not put them there was not material.

The WITNESS.—I received the letter received in evidence and marked exhibit “C” from Mr. Lee, in which he mentioned [268] “in reply to your letter concerning the charter, we have received it and there is a little dispute about it being the same. Some of the members want a copy of the old charter from Helena, Montana. We have written there” and so on. I at no time received any communica-

(Testimony of Ernest Mills.)

tion from this defendant corporation that the charter was accepted.

Q. You never received a communication that the charter was accepted, did you?

A. That communication acknowledged the receipt of it.

Q. Received through the mail, didn't it?

A. Yes. I think it was registered and there was a register receipt, and I have got that, yes.

Q. But you know nothing about what Mr. Lee referred to about a little dispute and so on; you know nothing of that other than what is stated in the letter.

A. Other than what is stated in the letter.

I don't recall receiving any other correspondence pertaining to the charter. I would not recollect it as well as receiving this. This is brought before me, and if you produce something else I might recognize it.

Of those several thousand members that I referred to as being located in different states and territories, some are located in Colorado, and miners' union organizations members of the Federation at Cripple Creek, Leadville, and Pueblo, and St. Elmo, ever since my recollection and connection with the Federation.

Q. How much per capita tax did you receive in the [269] month of January?

Mr. HILTON.—We object to that as incompetent, irrelevant and immaterial, and not proper cross-examination.

(Testimony of Ernest Mills.)

Which objection was by the Court sustained, to which ruling the defendant then and there duly asked for and was allowed an exception.

Q. Mr. Mills, you stated on direct examination that you, or that the Federation, speaking for the Federation, had brought suits and defended suits for the Butte Miners' Union. I don't just recall the wording of your answer. And that you had advanced money and contested suits in court, and brought suits and defendant suits.

Mr. GEAGAN.—We object to the question in the form it is put, as improper cross-examination, not based on any testimony of the witness in this particular incident; that the witness on direct examination did not testify as having brought suits.

Which objection was by the Court overruled, to which ruling the plaintiff then and there duly asked for and was allowed an exception.

A. They defended suits that were brought against the Butte Miners' Union and Western Federation of Miners in South Dakota.

The WITNESS.—The records of the suits I believe are here somewhere and they would be possibly the best evidence. The suit was brought by one Ryan to set aside the mortgage, [270] the Butte mortgage, and a claim that the Western Federation of Miners had against the Lead City Miners' Union, a corporation. The first suit was a suit brought by Ryan and others to set aside and make null and void the mortgage of the Butte Miners' Union of the Lead City Miners' Union Hall. That was defended

(Testimony of Ernest Mills.)

by the Western Federation of Miners, and judgment secured. Then later on there was some action by Ryan and others securing possession of some ten feet of the back of the lot on which the hall was, that had not been included in the original mortgage, and that was a suit brought by Ryan, and the court gave, the Federal Court, gave possession to the Butte Miners' Union and Western Federation of a territory of ten feet if I remember.

The COURT.—I don't think we need get the details of these suits. The only question in this suit, did the Federation render assistance to the Butte Union? We don't need the details.

The WITNESS.—In the suit I mentioned the Butte Miners' Union did not pay all the expenses and employ counsel and furnish the witnesses.

Q. Is it not a fact that the same cause of action which was a joint action brought because the Federation had a second mortgage for about five thousand dollars and the Butte Miners' Union twenty-five thousand dollars and the interest?

Mr. GEAGAN.—We object to the question on the ground and [271] for the reason it calls for the conclusion of the witness, and speaks of a proposition of law, whether or not the action was joint.

The COURT.—The only question is whether the Federation aided the Union in the suit.

The WITNESS.—I think the first suit was to set aside the Butte Miners' Union mortgage. The Western Federation of Miners defended the Butte Miners' Union in that suit, and put in a counterclaim

(Testimony of Ernest Mills.)

other than the mortgage. The Federation proved it was a counterclaim; and the Butte Miners' Union made the president its trustee to act for it. Mr. Moyer did not take that position himself without the knowledge of the Butte Miners' Union, I don't think. I understand you have brought an action against Mr. Moyer and the sheriff to set aside that assumption of trusteeship, and it is pending now in the Federal Court. That was all the litigation I had in mind, the only cause of action I referred to, in that December trial.

Q. Mr. Mills, is it not a fact that on the contrary the Butte Miners' Union out of its own private funds, employed counsel for the defense of the officers of the Western Federation of Miners, out of its own private funds?

A. I have no knowledge of that.

Mr. GEAGAN.—We object to that as improper cross-examination, and not tending to prove or disprove any issue involved. It is a matter between the union individuals [272] and not between the Federation as a whole and the union. It is improper cross-examination.

Which objection was by the Court sustained, to which ruling the defendant then and there duly asked for and was allowed an exception.

The WITNESS.—I am a member of local of Greenwood, British Columbia, a local in existence there now, paying per capita tax. I was in Butte last winter during the hearing of the case that was on trial in the District Court here.

(Testimony of Ernest Mills.)

Q. Was that Greenwood local paying taxes then?

A. Yes, sir.

Mr. GEAGAN.—We object to that as irrelevant and immaterial, and not within the issues of the case at bar.

The COURT.—Sustained.

The WITNESS.—I was familiar with the constitution of the Western Federation of Miners, and have been for a number of years.

Q. And during the time that you have been familiar with the Constitution of the Western Federation of Miners, is there any clause or section, chapter or article, that would permit or that claims the property of any local withdrawing from the Federation, or would permit of a claim of the property?

Mr. GEAGAN.—We object to that, if your Honor please, as irrelevant and immaterial, and improper cross-examination, [273] and calling for secondary evidence, when the constitution itself would be the best evidence.

Which objection was sustained, to which ruling the defendant then and there duly asked for and was allowed an exception.

The WITNESS.—The document which you now hand me is the 1912 constitution of the Western Federation of Miners, as revised in 1912, and it is the constitution that contains the laws of the Federation up until 1914, or rather until the fall of 1914, when it was revised. I have not got those amendments with me; have not a copy of the revised con-

(Testimony of Ernest Mills.)

stitution with me, but I will bring one up later, this afternoon.

Q. Mr. Mills, the document that I offered you, defendant's 1 for identification, contains all of the laws of the organization known as the Western Federation of Miners, all of the laws governing it up to the convention of August, 1914?

Mr. GEAGAN.—To which we object as improper cross-examination.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

Q. That is, the last constitution and by-laws; contains all of them up to last Christmas?

A. Yes, other than the charter, rituals, and so forth. [274]

Q. And when you refer to rituals you mean secret work of the organization?

A. There is a ritual later known as the secret work.

Redirect Examination by Mr. HILTON.

The WITNESS.—I have been familiar with, as secretary of the organization, with all of the charters that have been issued, from the time of the organization of the Western Federation of Miners.

Q. Has there ever been to your knowledge any charter issued by the organization that did not contain the same identical language as contained in the charter as you have said was issued to the Butte local Miners' Union No. 1, 1914?

Mr. BREEN.—We object as incompetent, irrelevant and immaterial in this case, for the reason that,

(Testimony of Ernest Mills.)

according to the testimony of the witness he was not a member until the year 1899. Is that correct?

A. Yes.

Mr. BREEN.—(Continuing.) 1899, when the Western Federation of Miners had been in existence then a period of more than six years. It would be hearsay as far as he was concerned.

The COURT.—You may answer. The Court will always take into consideration the extent of his knowledge. [275]

To which ruling the defendant then and there duly asked for and was allowed an exception.

A. Reading the bodies of the charter was identical.

Recross-examination by Mr. BREEN.

The WITNESS.—According to the records, the first charter was drafted by a committee appointed by the original convention, and from that there has been no change in the charter, other than by order of the convention at one time, the words, “of America,” were left out. The style of the charter has been changed by order of the executive board, that is, just the make up of it.

(Witness excused.) [276]

Testimony of William E. Walsh, for Plaintiffs.

WILLIAM E. WALSH, a witness called on behalf of the plaintiffs, being duly sworn, testified as follows:

Direct Examination by Mr. GEAGAN.

The WITNESS.—My name is William Walsh, and I reside in Butte City, Montana, Silver Bow

(Testimony of William E. Walsh.)

County. I was a member of the Western Federation of Miners from its inception until about seven years ago. By its inception I mean when it was first organized. It was organized in the old Miners' Union Hall in Butte. I was familiar with the form of the first charters issued by the Western Federation of Miners to the defendant organization and different locals. The Butte Miners' Union No. 1 was one of the first locals in the Federation, and it was through the Butte Miners' Union that the call was issued. I have examined the signatures to the document you have handed me, and I know both of those gentlemen. They are all dead now. When I say I know both of those gentlemen, I mean, John Gilligan and W. J. Weeks, and those are their signatures as I recollect. They are both deceased now. I am familiar with what this document contains and with the document itself and the form of it. It is a charter of the Western Federation of Miners.

(Document marked Plaintiffs' Exhibit "D" for identification.)

Mr. GEAGAN.—We offer this document in evidence at the [277] present time.

Mr. BREEN.—For what purpose?

Mr. GEAGAN.—For the purpose of showing that this form of charter is the original form of charter issued by the Western Federation of Miners to the different locals, and that Butte was one of the first locals in that Federation and that the charter which

was issued to Aspen Local Union No. 6, which was one of the unions, is the same in the nature of the contract as the charter that was issued to the Butte Miners' Union.

Mr. BREEN.—We object to it, if your Honor please, for the reason that it already appears in evidence from the testimony of Mr. Mills, that the Butte Miners' Union had a different form of charter to the one now attempted to be offered in evidence; that it contained the names of the charter members of the organization and that this contains nothing of the kind. The defendant objects to the offer in evidence of Plaintiffs' Exhibit "D" for identification for the reason that the same is incompetent, irrelevant and immaterial; for the reason that it is a charter issued or purported to have been issued to Aspen Miners' Union No. 6, and is not according to the evidence a copy or duplicate of the charter that was accepted by the Butte Miners' Union No. 1, The Butte Miners' Union, a corporation, at the time of its acceptance, in this, that it did not contain and does not contain any list of the charter members [278] that was on the original charter.

The COURT.—The objection is overruled. It may be received in evidence.

To which ruling of the Court the defendant then and there duly asked for and was allowed an exception.

Which document is as follows:

(Testimony of William E. Walsh.)

**Plaintiffs' Exhibit "D"—Charter of Western
Federation of Miners.**

**WESTERN FEDERATION OF MINERS OF
AMERICA.**

CHARTER.

KNOW YE, ALL MEN BY THESE PRESENTS, That acting under the authority vested in us by the laws of the above-named organization, we, the undersigned, do hereby grant this Charter to a body of miners who are to be hereafter known and designated as the ASPEN MINERS' UNION NO. 6. To be held by them or their successors; and the aforesaid Union being properly installed, is hereby authorized and empowered to transact business and initiate into its membership any person or persons lawfully proposed and elected in accordance with the Constitution, Rules and Regulations of the Western Federation of Miners of America. It is hereby agreed in the acceptance of this Charter that the aforesaid Union shall conform to the Constitution, Rules and Regulations, and in default thereof, this Charter may be revoked and the Union suspended from all rights and benefits according to the laws of the Western Federation of Miners; and, further, it is agreed, that should the aforesaid Union withdraw or be [279] dissolved, suspended or forfeit this Charter, then all property, monies, books and papers shall become the property of the Western Federation of Miners.

In consideration of the due and faithful performance of the foregoing stipulations, the Western Fed-

(Testimony of William E. Walsh.)

eration of Miners do hereby bind themselves to sustain said ASPEN MINERS' UNION, NO. 6, in the exercise of all rights, privileges and benefits as a local Union under its protection.

IN WITNESS WHEREOF, we have subscribed our names and affixed our Seal of the Western Federation of Miners, this 16th day of June, 1893.

JOHN GILLIGAN,

President.

W. J. WEEKS,

Secretary-Treasurer.

T. J. McLENNAN,

STEPHEN NICHOLAS,

WILLIAM CUNNINGHAM,

BART MALLOY,

Traitor. J. F. POYNTON.

The WITNESS.—In 1893 Mr. John Gilligan was president of the Western Federation of Miners, and Mr. W. J. Weeks was secretary-treasurer. I know all of those men who are named at the bottom of this charter, William Cunningham, Bart Malloy, T. J. McLennan, and Stephen Nicholas, and Joe Poynton. He went over into Idaho and got into some dispute over there. They were the committee of officers, of the first officers of the Western Federation of Miners, and that is how their names come to be on the bottom of this charter. At one time I was an officer of the Western Federation of [280] Miners, a member of the executive board, and acted secretary-treasurer for a few months, and as an officer of the Western Federation of Miners I issued several charters and signed them. They were identical with the

(Testimony of William E. Walsh.)

charter which you have just exhibited to me; the same charter. I was familiar with the Butte Miners' Union charter, that is the charter from the Western Federation, and it was identically the same in terms to the charter that you have exhibited to me.

Cross-examination by Mr. BREEN.

The WITNESS.—I was not a delegate from the Butte Miners' Union, the defendant here, to the first convention of the Western Federation of Miners. I was at the meeting of the Butte Miners' Union during the session of the convention in Miners' Union Hall when they made their report. It is a long time ago and I don't know that I could recall any of the proceedings of that meeting to mind now.

Q. Do you recall the inquiry being made or any inquiry being made by the Miners' Union, the Butte Miners' Union, as to what effect becoming a member of the Western Federation of Miners that was organized would have on its property and effects?

Mr. GEAGAN.—We object to that as incompetent, irrelevant and immaterial, not within the issues of this case, not having been raised by the pleadings, and that the contract [281] itself is the best evidence of the intent and purposes, and it is improper cross-examination.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. I cannot recall any at this time.

The WITNESS.—I recall a motion being made to become a local of the Federation; I recall that such

(Testimony of William E. Walsh.)

action was taken at that time, but I don't know that I could state who made the motion.

Q. Mr. Walsh, do you recall a discussion at the time as to what effect becoming a member would have on the property of the Butte Miners' Union?

A. All that I can recall is that it was discussed there for several meetings, and for six months prior to the organization, the features of going into this Federation, but I could not recall at this time what, or state positively anything in regard to who made the motion or what the discussion was outside of a general discussion leading up to the organization and its perfection.

Q. Do you recall that at that time the Butte Miners' Union was possessed of approximately sixty thousand dollars in the bank, or some large sum, owned its property and had a mortgage on some Coeur d'Alene property and in the Granite Mountain Hall, a large amount of property?

Mr. GEAGAN.—We object to that as immaterial, and it [282] can only be proper for the purpose of testing his recollection.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. Well, I know it owned its own property, but the exact amount of money in the bank at that time, I don't know that I could state positively.

Q. And none of this property at that time was accumulated by any act of the Federation, was it, Mr. Walsh?

(Testimony of William E. Walsh.)

Mr. GEAGAN.—We object to that as improper cross-examination.

Which objection was by the Court sustained, to which ruling the defendant then and there duly asked for and was allowed an exception.

(Witness excused.) [283]

Testimony of James J. Maher, for Plaintiffs.

JAMES J. MAHER, a witness called on behalf of plaintiffs, being duly sworn, testified as follows:

Direct Examination by Mr. HILTON.

The WITNESS.—My name is James J. Maher, and I have resided in Butte for twenty-nine years. From September 1st, 1896, to 1901, I was identified with the Western Federation of Miners, a labor organization, and during that time a member of the Butte Miners' Union, and occupied during that time the office of secretary-treasurer of the Western Federation of Miners. In the line of my duties as secretary-treasurer and in such capacity I issued charters. This is my signature to the document which you now hand me.

Q. Was this charter executed and issued by you as secretary-treasurer of the Western Federation of Miners?

Mr. BREEN.—We object as incompetent, irrelevant and immaterial for any purposes in this case, until it is shown that this charter is a duplicate of the Butte Miners' Union.

Which objection was by the Court overruled, to which ruling the defendant then and there duly asked for and was allowed an exception.

(Testimony of James J. Maher.)

A. Yes, sir.

Mr. HILTON.—I offer this in evidence. [284]

Mr. BREEN.—We object, if your Honor please, as incompetent, irrelevant and immaterial for any purposes whatever in this case, not proving or tending to prove that this is a facsimile of the charter of the Butte Miners' Union, and not being even a facsimile of the charter heretofore offered, and being of much later date than the charter alleged to have been tendered and accepted by the Butte Miners' Union of May 15, 1893, this being September 29, 1897, several years after, and it is not shown that this charter is a duplicate of the charter referred to as the charter possessed by the Butte Miners' Union, or accepted at the first of the organization of the Western Federation of Miners.

Which objection was, by the Court, overruled, to which ruling the defendant then and there duly asked for and was allowed an exception.

Which said document was marked Plaintiffs' Exhibit "E," and is as follows:

Plaintiff's Exhibit "E"—Charter Issued by Western Federation of Miners of America to Butte Mill and Smeltermen's Union, No. 74.

**WESTERN FEDERATION OF MINERS OF
AMERICA.
CHARTER.**

KNOW YE, ALL MEN BY THESE PRESENTS, That acting under the authority vested in us by the laws of the above-named organization, we, the undersigned, do hereby grant this Charter to a

body of Smeltermen who are to be hereafter known and designated as the BUTTE MILL AND SMELTERMEN'S UNION, No. 74. [285] To be held by them or their successors: And the aforesaid union being properly installed, is hereby authorized and empowered to transact business and initiate into its membership any person or persons lawfully proposed and elected in accordance with the Constitution, Rules and Regulations of the Western Federation of Miners of America. It is hereby agreed in the acceptance of this Charter that the aforesaid union shall conform to the Constitution, Rules and Regulations, and in default thereof, this Charter may be revoked and the Union suspended from all rights and benefits according to the laws of the Western Federation of Miners; and, further, it is agreed that should the aforesaid Union withdraw or be dissolved, suspended or forfeit this Charter, then all property, monies, books and papers shall become the property of the Western Federation of Miners.

In consideration of the due and faithful performance of the foregoing stipulations, the Western Federation of Miners do hereby bind themselves to sustain said Butte Mill and Smeltermen's Union, No. 74, in the exercise of all rights, privileges and benefits as a Local Union under its protection.

IN WITNESS WHEREOF, we have subscribed our names and affixed our Seal of the Western Federation of Miners, this 29th day of September, 1897.

[Seal] EDWARD BOYCE,

President.

JAMES MAHER,

Secretary-Treasurer. [286]

(Testimony of James J. Maher.)

The WITNESS.—I never issued a charter in the form of this charter, Plaintiffs' Exhibit "D" with these names on, because before the 1894 convention these names were taken off and at the 1896 convention the words "of America" *was* taken off. In all other respects the charter was never changed. We issued charters in the form of this one marked Plaintiffs' Exhibit "B," a long time ago. They were all the same with respect to the directorial board. A long time ago all of the charters were just the same and never were changed. I saw the original charter issued to the Butte Miners' Union No. 1 hanging on the wall for a number of years, and it was identical with the Aspen charter, not the last one, but the Aspen charter, the same as that.

Cross-examination by Mr. BREEN.

The WITNESS.—The Aspen charter was one of the first charters. I saw the charter of the Butte Miners' Union No. 1 hanging on the wall, but I don't think I ever read it.

(Witness excused.) [287]

**Testimony of Charles E. Mahoney, for Plaintiffs
(Recalled).**

CHARLES E. MAHONEY, a witness heretofore on the stand, being recalled, testified as follows:

Direct Examination by Mr. GEAGAN.

The WITNESS.—I am the same Charles E. Mahoney who was a witness in this case previously, but I was not cross-examined.

Mr. GEAGAN.—We now submit Mr. Mahoney for cross-examination.

(Testimony of Charles E. Mahoney.)

Cross-examination by Mr. BREEN.

The WITNESS.—I stated that I was vice-president of the Western Federation of Miners, and I have been such since 1906. Prior to that time I was a member of the executive board. Those offices carry with them a salary. I went on the executive board in December, 1904.

Q. And the salary I believe is seven dollars and fifty cents a day and railroad expenses?

Mr. GEAGAN.—We object to that as incompetent, irrelevant and immaterial, not within the issues of this case, and improper cross-examination.

Mr. BREEN.—It shows the interest of this witness.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception. [288]

A. No, sir.

The WITNESS.—I did not so testify in a hearing had before Judge McClernan last winter in the presence of Judge McClernan, Frank Riley, yourself and a number of others in the courtroom. My salary is five dollars a day and my expense account is two and a half a day. I also get my railroad fare in addition to that.

Q. And that has been going on for how many years?

Mr. GEAGAN.—We object to that as irrelevant and immaterial.

The COURT.—Yes, you have developed his interest.

(Testimony of Charles E. Mahoney.)

The WITNESS.—I am a member of the Western Federation of Miners, and of the Butte Miners' Union Local, having been such member of the Butte Miners' Union since 1912. I am not a member of the Butte Miners' Union that you purport to represent, but I am of the Butte Miners' Union of Butte, Montana, of the Western Federation of Miners. I am not a citizen of Butte at the present time. I am a member of an organization claiming to exist in Butte and I reside in Denver, that is where my home is.

I have testified as to the citizenship of Mr. Moyer. I don't know positively as to what local he is a member. I don't recall testifying that he was a member at large; don't remember of testifying to that a year ago. I was a witness in the case, but at this time I do not recall being asked that question. I answered at that time [289] that I did not know what local he was a member of. I am not positive. If my memory was refreshed by producing the record referred to I would not say that was not correct, and it might be at that time without me being positive of it now. Membership is changed from one local to another at times. I don't know whether Mr. Moyer has changed to any local or not.

Q. You do know that there is no such thing as a member at large provided for by the Constitution, don't you?

Mr. GEAGAN.—We object to that as improper cross-examination, irrelevant and immaterial.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked

(Testimony of Charles E. Mahoney.)

for and were allowed an exception.

A. A union at large is the same as any other local; it bears the same relation to the Western Federation of Miners; is comprised of men who may join it and not be assessable to other local unions.

This little blue book which you show me is the Constitution and Laws of the Western Federation of Miners. It is the last constitution adopted by referendum vote of the membership.

Document marked Defendant's 2 for identification.

Q. Will you examine Defendant's Exhibit 2 for identification, and show us where there is any provision in it providing for either a member at large or a local at large? [290]

Mr. GEAGAN.—We object to that as improper cross-examination.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. Section 1 of Article 1 provides that the organization, the local union, pay per capita tax to the entire organization or the Western Federation of Miners. The Union at large has been in existence for a great many years.

Q. Call our attention to it. Tell us that paragraph. Show us the section.

A. It assumes the same relation to the international organization as any other local union.

Q. I would ask that the witness be requested to answer the question.

(Testimony of Charles E. Mahoney.)

The COURT.—I understood the witness was reading from the document.

Mr. BREEN.—No, he is not reading anything.

The COURT.—Well, if you can, point out anything in the exhibit in your hand providing for membership at large or a union at large.

A. I have answered the question, your Honor, that it bears the same relation as any other local union.

The COURT.—No, you are asked to point out something in relation to it in the constitution and by-laws.

A. There is nothing in the constitution and by-laws [291] only the issuance of charters to local unions. It does not specify the Miners' Union or mill-men's union, or engineers', or pump-men's union, or surface-men's union, but it says the local union has to pay a per capita tax. The union at large bears the same relation to the Western Federation of Miners as to other local unions and pays their per capita tax in the same way.

Mr. BREEN.—We now ask to strike out that portion of the answer relating to the union at large, as not being responsive, and we are asking that he show us by what authority there is such a thing.

The COURT.—No, you asked him to show you from the Constitution and he has told you that there is nothing there relating to a union at large. The proof relating to a union at large, may be stricken; it is not responsive. He has answered your question fully.

Q. Well, you cannot show us anything, a clause, sentence, or section of this exhibit, any such provision

(Testimony of Charles E. Mahoney.)

as provides for this membership at large or a local at large?

Mr. HILTON.—He has answered that question.

The COURT.—I think so.

The WITNESS.—I am one of the plaintiffs in this action and have set up a claim of ownership to this property as specified.

Q. And can you state by this exhibit marked for identification [292] Defendant's Exhibit 2, and show us any clause, section or sentence providing that on the withdrawal of any local organization its property becomes forfeited to the general organization known as the Western Federation of Miners?

Mr. GEAGAN.—We object to that if your Honor please, as improper cross-examination, and irrelevant and immaterial at the present time, the charter contract being the contract relied upon.

Which objection was by the Court sustained, to which ruling the defendant then and there duly asked for and was allowed an exception.

Redirect Examination by Mr. GEAGAN.

Q. Mr. Breen interrogated you in relation to the union at large. What is the union at large in the Western Federation of Miners?

Mr. BREEN.—If your Honor please, we object to that question on the ground it is incompetent, irrelevant and immaterial for any purpose. There is nothing in the constitution or by-laws or any charter showing the existence of anything of the kind.

The COURT.—As a matter of fact there is no constitution or by-laws in evidence yet. He may answer

(Testimony of Charles E. Mahoney.)

the question and if not entitled to any weight or consideration it will [293] be given none by the Court. The objection is overruled.

To which ruling of the Court defendant then and there duly asked for and was allowed an exception.

A. The union at large in the Western Federation of Miners bears the same relation as any other local union to the Western Federation of Miners. It is comprised of men who are occupied in a way that they do not come directly in the jurisdiction of any local union, many of them employed at mining, construction of tunnels, and so forth. And men who so continue their membership, not as active members, or any man that is employed not directly in the jurisdiction of the local union, may carry his membership in the union at large bearing the same relation to the International organization as any other local union.

The WITNESS.—He pays the same dues and per capita tax as other members of the Federation, members of the different local unions, like Butte Miners' Union and Aspen Miners' Union, or the Leadville Miners' Union. When I say he bears the same relationship as any other local union I mean so far as paying dues and receiving benefits and all of that.

Recross Examination by Mr. BREEN.

The WITNESS.—The headquarters of the union at large is located at Denver, Colorado. It is not for the benefit [294] of those who have no vote or vocation as members, to draw salaries. They are members of local unions. There is one local union

(Testimony of Charles E. Mahoney.)

at large, and that is the one at Denver, Colorado. That is the one I referred to. If I went to work at Anaconda, Montana, I would have to transfer my membership—if a member at large went to work at Anaconda he would have to transfer. He could be a member and not be within the jurisdiction of, we will say, the local Anaconda, if he is not working in the jurisdiction of any other local, and could be paying his dues for ten years if he wants to without even seeing the place.

(Witness excused.) [295]

Testimony of Ernest Mills, for Plaintiff (Recalled).

ERNEST MILLS, a witness heretofore on the stand, being recalled by plaintiff, testified as follows:

Mr. GEAGAN.—Mr. Mills was under cross-examination and Mr. Breen asked to have him recalled.

Cross-examination by Mr. BREEN.

The WITNESS.—Defendant's Exhibit 2 which you hand me is the Constitution of the present day with all the different amendments. I have no correspondence in connection with the payment of the bill of Mr. Shea, or the sending of Mr. Shea to Philadelphia, but with talking with Mr. Lowney he refreshed my memory on the incident. Mr. Moyer wired the Butte Miners' Union asking them to advance Shea funds to go to Philadelphia with, as a delegate to attend the American Federation of Labor, and we would allow the same on their account, as they had some indebtedness, the sum of three thousand nine hundred dollars, to the Federation. They

(Testimony of Ernest Mills.)

owed the Federation the sum of three thousand nine hundred dollars and it was to apply on their account.

This telegram which you hand me I sent.

Mr. BREEN.—We offer this in evidence.

Mr. GEAGAN.—There is no objection to this, Mr. Breen.

Mr. BREEN.—(Reading.) “Denver, Colorado, October 27, 1914. Frank O'Connor, President Butte Miners' Union No. 1, [296] 217 North Main Street, Butte.

We believe it important that member of number one elected as delegate to A. F. of L.”—meaning the American Federation of Labor, I believe, is that not right? A. Yes.

Mr. BREEN.—(Continuing.)—“convention attend. Trial of Michigan makes it impossible to meet expenses of delegate. Advise number one advance Shea necessary amount and Federation will give them credit on account. Charles H. Moyer, Ernest Mills.”

The WITNESS.—To the best of my knowledge, the Butte Miners' Union, a corporation, owed to the Federation something like three thousand nine hundred dollars at the time I mention. I would not speak definitely. To the best of my recollection it was some three thousand odd dollars.

Q. Is it not a fact that at the time you claim that this indebtedness was owing that the Butte Miners' Union, this defendant, within a year, within six months or less than a year, that the Western Federation had received from them a sum far in excess of a

(Testimony of Ernest Mills.)

hundred thousand dollars.

Mr. GEAGAN.—We object to that, if your Honor please, as improper cross-examination, and incompetent, irrelevant and immaterial, as to the issues involved in the case at bar.

Which objection was by the Court sustained, to [297] which ruling the defendant then and there duly asked for and was allowed an exception.

The WITNESS.—Last May I appeared as a witness in Department two of the District Court of the Second Judicial District of this county and state, and was examined by yourself.

Q. Do you recall, or did you not at that time, testifying in the presence of Judge McClernana, and Mr. Riley, the Court Reporter, and Mr. Lee and Mr. Oliver and Mr. Baxter, and a number of others, that the Butte Miners' Union did not owe one cent to the Western Federation of Miners?

Mr. HILTON.—We object to that as improper.

Mr. BREEN.—I will attempt to ask it according to my recollection in the exact language I asked the other.

Q. Were you not asked by me, in the trial you referred to, held before Judge McClernan, that if you had not sent a bill to me from Denver, claiming that the Butte Miners' Union, after having paid out, or having paid to the Western Federation a sum, I believe, in excess of a quarter of a million dollars inside of a year, that they still owed the Western Federation of Miners the sum of \$60,415.65, and did you not at that time state during that examination and in the

(Testimony of Ernest Mills.)

presence of the parties I have named, that the Butte Miners' Union did not owe the Federation a dollar.

[298]

Mr. GEAGAN.—To which we object, if your Honor please, as incompetent, irrelevant and immaterial, an attempt to impeach the witness upon a matter entirely collateral to the matters now at issue; and on the further ground and for the further reason that the question as propounded is improper cross-examination, and as not tending to prove or disprove any of the issues involved in the case at bar.

Which objection was by the Court sustained, to which ruling the defendant then and there duly asked for and was allowed an exception.

Q. You stated, Mr. Mills, I believe, this morning that the Federation was well financed, did you not?

Mr. GEAGAN.—We object to that as incompetent, irrelevant and immaterial, not within the issues of this case and improper cross-examination.

Which objection was by the Court sustained, to which ruling the defendant then and there duly asked for and was allowed an exception.

The WITNESS.—I have a typewritten statement of my quarterly report with me. This is a typewritten copy of the last report.

Q. Is this a copy of the report that has been forwarded to the Butte Miners' Union?

Mr. GEAGAN.—We object to that, if your Honor please, as irrelevant and immaterial, not within the issues of this case, and improper cross-examination.

[299]

(Testimony of Ernest Mills.)

Which objection was by the Court sustained, to which ruling the defendant then and there duly asked for and was allowed an exception.

The WITNESS.—I have other reports at my room, bearing on the financial condition. This page of this report which you are looking at does not belong to it, and is not a part of it, but accidentally got in there. The report just comes to here (indicating).

Q. The report that you have offered, Mr. Mills, has just got what came in, but not the expenditures.

Mr. GEAGAN.—We object to that as incompetent, irrelevant and immaterial.

The COURT.—This witness has not offered the report. He has merely furnished it to you for your inspection on request.

(Witness excused.)

Mr. GEAGAN.—The plaintiffs and complainants, if the Court please, now rest. [300]

Testimony of Charles Baxter, for Defendant.

CHARLES BAXTER, a witness called on behalf of defendant, being duly sworn, testified as follows:

Direct Examination by Mr. BREEN.

The WITNESS.—My name is Charles Baxter, and by profession I am a miner, having followed that off and on for twenty-six years last past, either mining or smelting. I first came to Butte in 1890, and at that time I was a miner. I joined the Butte Miners' Union, a corporation, the defendant here, in 1890, and was a member then. I was a regular attendant at the meetings of the Butte Miners' Union

(Testimony of Charles Baxter.)

during the year 1893, including the spring and summer months. I had left Anaconda and came up here and was a pretty regular attendant at that time.

Q. Mr. Baxter, were you familiar or do you know anything of the organization of the Western Federation of Miners or when it was organized?

A. Well, when they first talked about the organization of the Federation of Miners taking place, I was working in Anaconda, down in the smelter, and the most of it was from newspaper and talk amongst the men that belonged to the local organization down there, which was the old Knights of Labor; and that following spring, in 1893, I was in Butte, and had lodged a withdrawal card and was attending the meetings. I had belonged in 1890, taken a withdrawal card and lodged my card again, and was attending the meetings [301] when I would be day shift, and heard the usual talk around at the mine.

As to the joining of the Western Federation of Miners by the Butte Miners' Union, I know there was a committee appointed to meet with other committees from locals of Miners Unions in different parts of the country for to get together to try to organize a body for mutual protection and benefit. At that time there were other miners' unions in the vicinity of Butte, and in Montana, such as one at Neihart, and I knew of one in Granite.

Q. Do you know whether or not, Mr. Baxter, these unions in the outside of the state, or other places other than Butte, were organized by the Butte

(Testimony of Charles Baxter.)

Miners' Unions sending an organizer there?

Mr. GEAGAN.—We object to that as irrelevant and immaterial, and not within the issues of this case.

The COURT.—What is the object?

Mr. BREEN.—The object is to show, if your Honor please, that the Butte Miners' Union at that time itself was organizing the miners at Neihart and had organized them at Missoula, Granite and other places, and the question is leading up to show why the Federation was formed.

Which objection was by the Court sustained, to which ruling the defendant then and there duly asked for and was allowed an exception.

The WITNESS.—I saw the first charter that was received [302] from the Western Federation of Miners hanging in the hall on the wall many, many times, and I was at one or more meetings prior to the adoption of the first charter, from the Federation, when the question came up as to whether the Butte Miners' Union would become members of the Federation; whether they would join in with the new organization that was proposed to be formed.

Q. Was there at any time, or was there in the charter that was received, any clause of a nature referred to here whereby all of the property would be forfeited if they joined the Federation and then saw fit to withdraw.

Mr. GEAGAN.—If your Honor please, to which we object as leading and suggestive, and on the further ground that it has not been shown that the witness is qualified to state whether or not there was any such clause in the charter.

(Testimony of Charles Baxter.)

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. I have read the charter over several times and I never saw any clause authorizing the forfeiture of the property and the money; I read the charter and never saw it, and I read it from beginning to end.

Q. Will you tell us whether or not the question of what effect a joinder with the Federation would have on the property of the Butte Miners' Union was discussed at [303] those meetings that you referred to?

Mr. GEAGAN.—We object to that, if your Honor please, as incompetent, irrelevant and immaterial, and calling for a conclusion of the witness, and the same is leading and suggestive.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. I heard it discussed at one or more meetings, and also on the street corners and in the mine amongst the members of the union, as to what effect it would have, us joining the Federation, whether we would be responsible in any way, or whether they could hold our money in any way if we joined.

Q. Do you recall whether you were present at any time at a meeting when a part of the charter that would be acceptable to the Butte Miners' Union was shown?

Mr. GEAGAN.—We object to that as incompetent, irrelevant and immaterial, not having been estab-

(Testimony of Charles Baxter.)

lished that there was any part of any charter that was acceptable to the Butte Miners' Union ever having been received and not within the issues; that the witness is now testifying to a time after the organization of the Miners.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception. [304]

A. No, I cannot on oath testify that I was present and heard a part of the charter read.

The WITNESS.—I have taken several withdrawal cards from the Butte Miners' Union, but I have been continuously a member since 1898. At that time I came back to Butte to stay. At the present time I am president of the defendant corporation. I was off shift all through the summer and fall of the year 1914, and in the months of September and October, and attended the meetings all through because I had nothing else to do. I recall the time that the charter was received from Denver, after the one was destroyed, and I examined that charter when my attention was called to it; I was asked to examine it. I was in the office, in the hall in North Main Street when my attention was called to it and I was asked to examine it, and by that I mean in the office of the Butte Miners' Union, the defendant here.

Q. Was there any difference between charter your attention was called to and the old charter?

Mr. GEAGAN.—We object to that as calling for a conclusion of the witness.

(Testimony of Charles Baxter.)

The COURT.—Ask him if he can tell the difference if he knows of any. The objection is overruled.

To which ruling of the Court the plaintiffs then and there duly asked for and were allowed an exception.

A. And my attention was called to the forfeiture clause in the new charter which I could never recall having [305] seen in the old one.

The WITNESS.—There was no other difference existing between that charter that I can recall, and the old charter. Another difference in the charter, in the bottom of the charter there were a lot of names attached to the old charter that were not on the new one, but the body of the charter was practically the same except for the forfeiture clause.

Q. Then after this examination that you made of the charter, that your attention was called to, what was done with the charter?

A. As near as I can recall it, it came under the head of "Good and Welfare" at the meeting that night. Someone mentioned the fact of its coming up, and mentioned it that "we have received a new charter" and one of our members, Pat Leahy, to be exact with the name, picked it up and looked it over and read it, and he says: "We have no use for that," he says, "We don't want to lose our property" and he threw it on the table.

Mr. GEAGAN.—We object to that as a hearsay statement.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

(Testimony of Charles Baxter.)

A. (Continuing.) What I heard him mention was "that we have no use for that," and he threw it on the table, and I think that was the end of it, and there was no other action taken on it at that meeting.
[306]

Q. Was this charter that was signed on or about the fifth day of October, or the one bearing date I believe of Denver, dated October 3d, was that charter ever accepted by the Butte Miners' Union, a corporation, the defendant here?

Mr. GEAGAN.—We object to that as calling for a conclusion of the witness.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. Never, to my knowledge.

The WITNESS.—The charter referred to, the one which bears the date of Denver, October 3d, 1914, to my knowledge was tendered to Charles Mahoney, one of the general officers of the Federation, as not being a state charter. Pat Lee made that tender. At that time Mr. Mahoney said, "We don't want it," or "I don't want it."

Mr. BREEN.—If your Honor please, I take it from your Honor's statement a short time ago, that any reference or any testimony with regard to the large amounts of money that was paid by this defendant corporation to the Western Federation of Miners was not material in this case.

The COURT.—The mere fact alone that a great deal of money has been paid by the defendant to the

(Testimony of Charles Baxter.)

Western Federation, I don't see how that could be material, and I don't imagine there would be any dispute about it; no doubt [307] it is so. I don't see that it would be material, but in order to make your record you may make an offer to prove.

Mr. BREEN.—If your Honor please, the defendant now offers to prove by the witness now on the stand that during the time that the Butte Miners' Union was a member of the Western Federation of Miners, that they paid in dues and assessments, paid dues known as "per capita tax," and assessments demanded of them during the years that they were associated with the Federation, or local of the Federation, a sum in excess of one million dollars. And we further offer to prove that on numerous occasions they protested against these assessments, which sums amounted to several dollars per month, that they were told they would pay it whether they liked it or not. And to further offer to prove by the witness on the stand that between the 1st day of July, 1913, and the 1st day of July, 1914, they paid as assessments to the above-named Western Federation of Miners one hundred and thirty-eight thousand eight hundred and twenty-five dollars and sixty cents; donations, twenty-one hundred; per capital, seventeen thousand five hundred; supplies, five hundred; a total of one hundred and sixty-two thousand nine hundred and twenty-five dollars and sixty cents. And that between January 5, 1914, and June 15th, of this last year, they paid out in dues and assessments and donations and the Federation received the sum of

(Testimony of Charles Baxter.)

seventy-eight thousand five [308] hundred and fifty dollars from this defendant corporation. That we can prove those facts by the witness now on the stand, and by the witness Mr. Ernest Mills, who has already testified in this case, as shown by the records of the Federation, and that in addition to the amount paid the Western Federation of Miners claim that the Butte Miners' Union, a corporation, owed it a balance, and so carried it on its record and in its report, a balance of forty-four thousand two hundred and sixty-eight dollars and fifteen cents; and an additional amount in addition to the forty-four thousand two hundred and sixty-eight dollars and fifteen cents, and from January 1st to June 1st, 1914, and June 2d, of said year, the following additional indebtedness or amounts; January 1st, being forty-four thousand two hundred and sixty-eight dollars and fifteen cents; January 16th, an additional one thousand two hundred and fifty dollars indebtedness; January 21st, fifty-five dollars; February 3d—I can't make out the second figure—fifteen thousand four hundred and twenty-eight dollars; February 5th, an additional one thousand two hundred and fifty dollars; the 10th, a hundred fifty-six dollars and fifty cents; March 1st, an additional indebtedness of twenty thousand three hundred seventeen dollars fifty cents; March 2d, an additional one thousand two hundred and fifty dollars; March 2d, again, seven hundred and fifty dollars; March 18, one thousand two [309] fifty dollars; April 1st, twenty thousand six hundred thirty-nine

(Testimony of Charles Baxter.)

dollars fifty cents; April 10th, one thousand two hundred fifty dollars; May 1st, nineteen thousand six hundred fifty-six dollars; May 7th, one thousand two hundred fifty dollars; June 1st, seven thousand five hundred seventy-six dollars; June 2d, one thousand two hundred fifty dollars, making a total amount paid from January 1st, 1914, to June 2d, 1914, of a hundred and thirty-six thousand eight hundred and sixty-four dollars, sixty-five cents. And in addition to the above, and after receiving the seventy-eight thousand five hundred fifty dollars, as claimed, the Western Federation of Miners claimed that on June 13th, 1914, there was due and owing a balance of sixty thousand four hundred fifteen dollars sixty-five cents.

And as a further reason for this withdrawal we offer to prove by this witness and other witnesses to be hereafter called, that they, Mr. Moyer, one of the plaintiffs here, attempted, after the destruction of the hall of this defendant, on the 23d day of June, 1914, to get possession of the money of this defendant in the banking house of the Daly Bank & Trust Company, and take it away with him to Denver; and that later there were repeated demands made during a period of months, continuous demands made upon this defendant to contribute money to the Western Federation of Miners, and asking a donation of five thousand dollars, which was rejected, and then members of the Executive Board were sent here for the purpose of getting money from [310] this defendant, and after demanding the five thou-

(Testimony of Charles Baxter.)

sand dollars, and it being up for a number of meetings, I believe two or more, they finally accepted the sum of one hundred dollars.

That because of these requests for donations and the treatment accorded these members, the action of this withdrawal complaint; but that prior thereto an action was brought against the officers of the local under a certain clause of the constitution of the Western Federation of Miners, which was specially prepared for the purpose of getting possession of this property, to oust the officers from the office and get the handling of this property for themselves.

We further offer to prove by the witness now on the stand and by other witnesses to be hereafter called, that the defendant, the Butte Miners' Union, a corporation, never received one cent so far in any shape, manner or form, or any benefit or any returns whatever from the moneys so demanded and received by the Western Federation of Miners through its officers.

And if your Honor please, we have also set up as a defense that at the time of the organization of the Miners' Union, and the time of its incorporation, that its aims and objects were for the purpose of protecting its members. We set out what the purpose was and what the monthly dues would be and the object for which money was [311] collected, —, a hall to hold meetings in, to take care of the sick, to bury their dead—well, I suppose I can introduce the articles with reference to that later—so we

(Testimony of Charles Baxter.)

submit the offer for the purposes here stated.

Mr. GEAGAN.—To which the plaintiffs and complainants object on the ground and for the reason that the testimony offered to be submitted and the proof to be adduced by witnesses is incompetent, irrelevant and immaterial to the issues involved in the case now at bar. As to all of the donations, and per capita tax, and so forth, the same would involve an accounting, and it is not involved in the suit at bar; and for the further reason that there is no issue involved in the case at bar, save and except as to the contractual relation between the complainant and the defendant with regard to the relations entered into between them, and the effect of their act of withdrawal as to the relation, and that it would not tend to prove or disprove these issues.

Mr. BREEN.—Before your Honor rules, I would like to offer an additional matter. Defendant offers to prove by the witness now on the stand and by other witnesses and documentary evidence that can be produced, that, as another reason why they did not desire to remain longer associated with the Western Federation of Miners was that the officers seemed to have, and upon making an examination they found that the plaintiffs heretofore named—there are only two of [312] them at present before the Court—but members and officers of the organization had received large amounts of money, to wit: John C. Lowney, who is present in the courtroom, and a member of the Executive Board of the above-named Western Federation of Miners, besides

(Testimony of Charles Baxter.)

per diem, which amounted to seven dollars fifty cents per day, an additional amount for traveling expenses, and incidentals between the twenty-second day of August, 1913, and December 9, 1913, received from the funds of the above-named Western Federation of Miners the sum of eighty thousand dollars; that from September 26th, 1913, to October 16, of the same year, Guy E. Miller, one of the plaintiffs above named, who is generally and now is an officer of the Western Federation of Miners, and executive board member, received out of the funds of the said organization, besides per diem at the same rate of seven dollars fifty cents a day, and expenses, from September 26 to October 16, the sum of one hundred thousand dollars; that C. E. Mahoney, the witness who recently left the stand, besides per diem at the rate of seven dollars and fifty cents, and traveling expenses, received between the date of October 24, 1913, and November 17, of the same year, the sum of eighty thousand dollars; that Albert N. ———, a member of the organization appointed to handle its funds between the dates of December 23d, 1913, to May 20, 1914, the sum of a hundred and eleven thousand six hundred dollars out of the Western Federation; [313] that Charles H. Moyer, one of the plaintiffs here, in a period of three months commencing December 20, 1913, received from the funds of the Western Federation of Miners the sum of twenty-five thousand dollars, exclusive of per diem and traveling expenses at the rate of seven dollars and fifty cents, and traveling expenses. And fur-

(Testimony of Charles Baxter.)

ther that they found that there was expended by the above-named Western Federation of Miners, through its paid employees, for the year beginning July 1st, 1913, and ending July 1st, 1914, the sum of nine hundred and nineteen thousand, five hundred and twenty-two dollars and three cents; and that when those facts became known very many and nearly all of the locals composing the Federation became dissatisfied and refused to pay, and the condition of the Federation would show, became such that they were unable to pay their bills or to carry on the publication of the "Miners' Magazine," and that it was reduced from a respectable proper magazine similar to the size and printed on the same character of type and paper, as the "Saturday Evening Post," and issued weekly, to a little handbill issued once a month; and that because of their financial condition and to avoid further notoriety and publicity this defendant, the Butte Miners' Union paid one hundred and thirty-three dollars for guns purchased by Mr. Moyer between the nineteenth and the twenty-third days of June, 1914, and paid a bill for the traveling expenses of Mr. Shea, as requested by Mr. [314] Moyer and Mr. Mills, amounting to the sum of three hundred and fifty dollars, on a trip to Philadelphia as a delegate.

Mr. GEAGAN.—To which further offer we interpose the objection interposed to the former offer made, and to the whole of the offered evidence, we interpose the objection that the same would involve a matter arising in an accounting; and for the fur-

(Testimony of Charles Baxter.)

ther reason that the same, even if true, would not constitute a defense to the action now at bar as the same would not have anything to do with the contract that is now in controversy before the Court; and upon the further ground and for the further reason that the same would tend to involve an accounting between the Western Federation of Miners and certain individuals named in the offer to prove, but in this case it is entirely incompetent, irrelevant and immaterial, and improper cross-examination, and not within the issues involved in the case.

Which objection was by the Court sustained, to which ruling the defendant then and there duly asked for and was allowed an exception.

The WITNESS.—The property of the Butte Miners' Union was accumulated by the monthly dues collected from the members, and those monthly dues were collected for the purposes of paying the running expenses every month, and paying sick and funeral benefits, and also giving donations to a brother who happened to be in need. It was used for [315] that purpose, and that has been the policy since the year 1890, when I first became a member.

Q. Do you know whether or not, during the years that you have been a member of the Butte Miners' Union, a corporation, the defendant here, that the union assisted other local unions that were in debt, to get out of debt, or to protect their property, as to funds?

Mr. GEAGAN.—We object to that as entirely in-

(Testimony of Charles Baxter.)

competent, irrelevant, immaterial, and not within the issues.

Which objection was by the Court sustained, to which ruling the defendant then and there duly asked for and was allowed an exception.

The WITNESS.—I never have seen a copy of this constitution before, which is marked Defendant's Exhibit 2 for identification. The last one I ever had in my hands before was the one up to 1912. This one has been amended, and I never did see a copy of it as it has been amended. I saw the amendments that were proposed at the last convention.

Mr. BREEN.—I suppose, Mr. Geagan, that we can agree that this constitution with the blue cover is the same as the one with the red, with the addition of the amendments that are on the sheet that Mr. Baxter has in his hands.

Mr. GEAGAN.—What is the object?

Mr. BREEN.—I would say that I propose to offer in evidence three sections of this constitution, in fact I will [316] offer three sections of the constitution. They are not in any manner affected by the amendments, but we would rather offer the whole constitution.

It is admitted, if your Honor please, that this is the last constitution, and I desire to offer in evidence section three of article one.

Mr. GEAGAN.—No objection to that.

Mr. BREEN.—Section three of article one (reading): "Whenever twenty or more persons, working as specified in section one of this article, shall be

(Testimony of Charles Baxter.)

found that will be self-supporting, they shall, on application, be granted a charter, provided that no charter shall be issued the effect of which is to segregate the crafts engaged in the mining industry."

I also offer section one of article six.

Mr. GEAGAN.—Go ahead.

Mr. BREEN.—Section one, article six (reading): "The revenue of the Federation shall be derived from a charter fee of ten dollars, and a per capita tax of twenty-five cents per month on all monthly dues collected in accordance with the stamp system, to be paid from the general fund of each union through the purchase of said stamps in advance, and such assessments as may be levied by an international convention or a referendum vote of the members of the Western Federation of Miners, or by the international executive board, for a period of two months [317] pending the referendum vote. The same shall be paid from the general fund, and based on the preceding monthly report previous to such assessment."

I also offer section four of article fifteen.

Mr. GEAGAN.—No objection.

Mr. BREEN.—Section four of article fifteen (reading): "The property of defunct unions shall be held in trust by the Federation, and where local unions are reorganized within a period of one year, comprising of twenty or more members of the former local, the property so held in trust shall be returned to the reorganized local, but when the locals are

(Testimony of Charles Baxter.)

reorganized with less than twenty members of the former local, they shall have no claim on the property of the defunct union. At the expiration of one year from the date of the local going defunct, the property shall cease to be held in trust, and become the property of the Federation.”

Now, if your Honor please, I offer the whole constitution, which is marked Defendant's Exhibit 2, for identification, in evidence, for the purpose of showing that there is no clause in the constitution *for* which provides for the forfeiture of the property of any local union withdrawing from the Federation, and that under the constitution and laws of the Western Federation of Miners there is no authority whatever vested in any officer or body of officers to incorporate a clause of the [318] kind referred to in the charter, the charter that was claimed to be issued to this defendant corporation; and further for the purpose of showing that there is no provision in the constitution providing for the organization or existence of either a member or a local at large.

Mr. GEAGAN.—To which we object as incompetent, irrelevant and immaterial. The constitution would not be competent to prove what it does not contain; it is only competent to prove what it does contain; for the further reason that what it does not contain would be entirely irrelevant and immaterial, and that it would be only the things that it did contain that would be competent, relevant or material if at all, and that it could not be taken as evidence

(Testimony of Charles Baxter.)

for the purpose of showing that it did not contain what counsel desires to show.

The COURT.—I think the Court might want to look at this Constitution, and By-laws, as part of your agreement between locals and the Federation, so the objection will be overruled.

To which ruling of the Court the plaintiffs then and there duly asked for and were allowed an exception.

Which said document is as follows:

**Defendant's Exhibit 2—Constitution of the
Western Federation of Miners A. F. of L.**

CONSTITUTION of the Western Federation of Miners Affiliated with A. F. of L. Adopted at Butte City, Mont., May 19, 1893. Amended at Salt Lake City, Utah, 1894. [319] Amended at Denver, Colorado, 1895. Amended at Denver, Colorado, 1896. Amended at Salt Lake City, Utah, 1897. Amended at Salt Lake City, Utah, 1898. Amended at Salt Lake City, Utah, 1899. Amended at Denver, Colorado, May, 1900. Amended at Denver, Colorado, May, 1901. Amended and revised at Denver, Colorado, November, 1901. Amended at Denver, Colorado, May, 1902. Amended at Denver, Colorado, May, 1903. Amended at Denver, Colorado, May, 1904. Amended at Salt Lake City, Utah, 1905. Amended at Denver, Colorado, May, 1906. Amended at Denver, Colorado, June, 1907. Amended at Denver, Colorado, July 1908. Amended at Denver, Colorado, July, 1909. Amended at Denver, Colo-

rado, July, 1910. Amended at Butte, Montana, July, 1911. Amended at Victor, Colorado, July, 1912. Amended at Denver Colorado, July, 1914.

PREAMBLE.

1. We hold that there is a class struggle in Society and that this struggle is caused by economic conditions.

2. We affirm the economic condition of the producer to be that he is exploited of the wealth which he produces, being allowed to retain barely sufficient for his elementary necessities.

3. We hold that the class struggle will continue until the producer is recognized as the sole master of his product.

4. We assert that the working class, and it alone, can and must achieve its own emancipation. [320]

5. We hold, finally, that an industrial union and the concerted political action of all wage workers, is the only method of attaining this end,

6. Therefore, we, the wage slaves, employed in and around the mines, mills, smelters, tunnels, open pits and open cuts, have associated in the Western Federation of Miners.

CONSTITUTION.

Article I.

Section 1. This organization shall be known as the Western Federation of Miners, and shall be composed of all persons working in and around mines, mills, smelters, tunnels, open pits and open cuts, organized into unions paying per capita tax to the Federation.

Sec. 2. The objects of this organization shall be to unite the various persons working in and around the mines, mills, smelters, tunnels, open pits and open cuts, into one central body, to practice those virtues that adorn society and remind man of his duty to his fellow man, the elevation of his position and the maintenance of the rights of the workers to increase the wages and improve the conditions of employment of our members by legislation, conciliation, joint agreements or strikes.

Sec. 3. Whenever twenty or more persons, working as specified in Section 1 of this article, shall be found that will be self-supporting, they shall, on application, be granted a charter. Provided that no charter shall be issued [321] the effect of which is to segregate the crafts engaged in the mining industry.

Article II.

Convention.

Section 1. This Federation shall hold its biennial convention on the third Monday in July, at such place as the convention shall designate before adjournment of any session thereof.

Sec. 2. Each union shall be entitled to one delegate for one hundred members or less, and one for each additional one hundred or majority fraction thereof. Provided, no delegate shall in any event, either holding proxy votes or representing a union entitled to a greater number, cast more than five votes.

Sec. 3. Representation in the biennial convention shall be based on the April report prior to the

holding of the convention, and the January report of each year shall be an annual report; provided, in case a special convention is held, the representation shall be based on the last monthly report prior to the calling of the special convention.

Sec. 4. Each union shall elect a delegate or delegates, and alternates to attend the biennial convention of the Federation. Such delegates and alternates shall be nominated and elected in compliance with Section 1, Article XIV of the Constitution, and said election of delegates and alternates shall take place at the semi-annual election of all [322] local unions, the first meeting in June. The alternate delegate shall only attend and be entitled to a seat in the convention when the regularly elected delegate fails, refuses or is unable to be present to discharge his duties. To be eligible, a delegate or alternate must be a *bona fide* wage worker in the jurisdiction of his local union, or one who is employed by his local union, or the Western Federation of Miners, having a membership in good standing in the Western Federation of Miners for a period of not less than one year, immediately preceding the date of his nomination; provided, however, that the provisions of this section shall not apply to the unions and members thereof which have been organized for a length of time less than that mentioned herein. Delegates shall present their credentials and have them passed upon before taking their seats in the convention. Delegates in attendance at the convention and absenting themselves without permission from the sessions thereof shall not be entitled to their per diem for

any day, or part of a day, upon which they were absent. Duplicate credentials must be in the hands of the Secretary-Treasurer at least fifteen days prior to the meeting of the convention. No local union shall be entitled to representation in the convention which has not complied with the Constitution of the Federation. All proxy credential certificates must be sent direct to the delegates named thereon, and the duplicate certificate to the Secretary-Treasurer [323] at headquarters fifteen days prior to the meeting of the biennial convention.

Sec. 5. Delegates representing a majority of the unions comprising the Federation shall constitute a quorum.

Sec. 6. Ladies' Auxiliaries of the Western Federation of Miners shall be entitled to one delegate with one vote for each auxiliary in good standing and transportation expenses for said delegate shall be paid by the Federation.

Pay of Delegates.

Sec. 7. The pay of each delegate to the viennial convention shall not be less than \$5.00 per day, which shall be paid by the union he represents.

The Federation shall pay the transportation expenses of one delegate from each union in good standing. Any union electing more than one delegate shall pay transportation expenses on all delegates elected above that number. Secretaries of all local unions shall insert on credential card the name of delegate entitled to mileage at headquarters.

Article III.

Nomination and Election of Officers.

Section 1. The officers of the Federation shall consist of the President, Vice-President, Secretary-Treasurer, and four other Executive board members, all of whom shall be elected by a vote of the membership.

Sec. 2. The call, with blanks for nominations, shall be issued by the Secretary-Treasurer on the first day of [324] March in each even numbered year. Each local may nominate one candidate for each office, but the name of no candidate shall be placed on the ballot unless nominated by at least five locals.

Sec. 3. The returns of the nominations must be in the hands of the Secretary-Treasurer of the Western Federation of Miners not later than the 15th day of April; provided, that any local that cannot be reached by mail may use telegraph or other means of communication.

Sec. 4. The Secretary-Treasurer shall immediately notify each nominee of his nomination, and his acceptance, together with a statement certifying to the eligibility of the nominee for the office for which he is nominated according to the provisions of this constitution, must be in the hands of the Secretary-Treasurer not later than May 10th.

Sec. 5. The Secretary-Treasurer shall send to each local union a sufficient number of ballots for the members thereof on which shall be printed in full the names of all eligible candidates. The voting

shall take place at the regular June election of that year.

Sec. 6. The Secretaries of the local unions shall immediately after election send the ballots and returns of the election to headquarters, said returns to be signed by the judges of election, countersigned by the Secretary and bear the seal of the local union. The returns shall be sent to headquarters in a special envelope provided by headquarters [325] on which shall be printed the words "Election Returns," these returns and the ballots to be held intact until the convening of the Convention.

Sec. 7. At the Convention a committee of three shall be elected to canvass the returns, the ballots to be held intact until the close of the Convention, after which, if no contest is made, these ballots shall be destroyed.

Sec. 8. For the offices of President, Vice-President and Secretary-Treasurer the candidates receiving the highest number of votes for each of those respective offices shall be elected, and the four candidates for Executive Board members receiving the four highest number of votes shall be declared elected.

Sec. 9. All officers elected to be installed at the Convention or, if absent, as soon thereafter as possible, and they shall take office on the 1st day of September following.

Sec. 10. Delegates to the American Federation of Labor Convention shall be elected annually, according to the same provisions for the election of officers in the biennial election.

Sec. 11. The candidates receiving the highest number of votes shall be declared elected.

Sec. 12. The candidates receiving the next highest number of votes shall be declared alternates. [326]

Sec. 13. Delegates to the American Federation of Labor shall receive the same pay as Delegates to the Western Federation of Miners' Convention.

Sec. 14. To be eligible to any elective office, or Delegate to the American Federation of Labor Convention, the same qualification shall be required as those provided in this Constitution for Delegates to the Western Federation of Miners' Convention.

Sec. 15. All nominations shall be open in each local the first meeting in March and remain open for three regular meetings. The choice of the local shall be determined through election by ballot. Said nomination election to be held on the day of the fourth regular meeting in March. The polls shall be held open on election day from 9 A. M. to 9 P. M. in all locals and notice of said election shall be given by posting same in the local's office and hall and inserting in the local press wherever possible. The candidates receiving the highest number of votes in the nomination election shall be declared the nominee of the local.

Recall of Officers.

Sec. . On petition for the recall of an official of the Western Federation of Miners signed by not less than ten per cent of the membership of the Federation in good standing from not less than ten local unions of the Western Federation of Miners, it shall

be the imperative duty of the Executive Board to call for a referendum vote of the entire [327] membership in the manner provided for in Section 10, Article IV.

Article IV.

Duties of President.

Section 1. It is the duty of the President to preside at all meetings of the Federation, preserve order, enforce the Constitution and watch vigilantly over the interests and affairs of the Federation. In this he shall be assisted by all the officers of the Federation. He shall have the right to vote at the election of officers, and when the members are equally divided he shall have the deciding vote on the question under consideration. He shall sign all orders drawn by the Secretary-Treasurer, in compliance with a vote of the majority at any session of the Executive Board. He shall, with the approval of the Executive Board, fill all vacancies occurring in the Executive Board, or in the offices of Vice-President and Secretary-Treasurer. He may, with the approval of the Executive Board, appoint such organizers as the condition of the Federation may justify. Said organizers shall at all times act under the instructions of the President, and they shall receive not less than \$100 per month for such time as they are actually employed, together with transportation expenses, and they shall report to the office of the Federation in writing at least once each week while in the employ of the Federation as organizers. The President shall visit each [328] district once each year, and visit as many unions as the conditions of the Federation will per-

mit; and he may also examine the books of any union he visits, provided he has time so to do, in order to ascertain if each union is paying its share of the maintenance of the Federation, he shall communicate with persons living in places where the Federation does not exist, and have them organized, if possible. He may convene the Executive Board when, in his opinion, the affairs of the Federation will justify the same; and he may, with the approval of the Executive Board, call an extra convention of the Federation, and he shall, on written request of six members of the Executive Board or on written request of ten unions having a combined membership of 7,500, call an extra convention of the Federation. He shall be and he is hereby constituted the trustees to sell, transfer or encumber in any manner and to any extent that he deems for the best interests of the Federation, any and all real and personal property, except the funds of the Western Federation of Miners, with the concurrence and under the direction of the Executive Board of the Federation, or a convention duly called and assembled, and he shall execute all such documents in manner following: The Western Federation of Miners, by _____, Trustee. He shall submit a complete report of his work during the term of his office to each convention, and make such recommendations as in his [329] judgment will advance the interests of the organization. The President shall have the power, with the consent of the Executive Board, to revoke the charter of or penalize any local union for violation of the Con-

stitution, or proven treachery to the principles of the Western Federation of Miners. The President shall have power on petition of ten per cent of the members in good standing in their respective locals making charges in writing against their local officers to take complete charge of the local's affairs, and if the charges are proven he shall call a special election within thirty days and place the local's affairs on a business basis before relinquishing to local's officials. He shall receive \$5.00 per day for his services, besides such an additional amount as may be necessary to defray his transportation and other expenses.

Duties of Vice-President.

Sec. 2. It is the duty of the Vice-President to assist the President to preserve order at all meetings and assist him in the discharge of his duties; preside during his absence, and perform the duties devolving upon the President; and in case of vacancy occurring in the office of President, he shall ascend to the Presidency and act as such for the unexpired term.

Duties of the Secretary-Treasurer.

Sec. 3. It shall be the duty of the Secretary-Treasurer to attend all conventions of the Western Federation [330] of Miners, and bring thereto all the necessary books, papers, and documents pertaining to his office, and keep a proper and correct record of the proceedings of the convention; read all petitions, resolutions and communications, not in charge of a special committee, which may be submitted to the Federation, file and safely keep, unless otherwise ordered, all papers or documents which have

been before the convention. At each biennial meeting of the convention he shall submit a complete report of the receipts and disbursements of the Federation for the preceding year, number of unions organized, number in good standing and the number of unions disbanded, if any, and the cause thereof. If ordered by the convention, he shall cause to be printed duly authenticated copies of the proceedings of the convention and furnish each local union with a copy thereof. He shall prepare, sign and seal all charters and such other papers and documents as may emanate from the Western Federation of Miners, and which are required to be duly authenticated. He shall, at the end of each quarter, send a report to each local union, showing the receipts, and the dates thereof, of all moneys received from the local unions for the preceding quarter. All moneys coming into his hands belonging to the Federation shall be deposited at least twice a month, in some solvent bank or banks, and shall only be drawn out to pay indebtedness arising out of the due conducting of the business of the Federation, [331] and then only after a bill shall have been first duly presented by the creditor, when in payment thereof a check shall be drawn and signed by him, after which he shall present it, together with the bill, to the President for his counter-signatures. He shall have charge of all the funds and property of the Western Federation of Miners, and shall keep a careful and accurate account thereof, as well as an accurate account of all funds arising out of the relation of the Federation with the local unions, and whenever

money is received from a local union a receipt therefor must be given or mailed to the sender. He shall promptly attend to all correspondence pertaining to his office, and within the first week of May of each year he shall send to each union which is not indebted to the Federation for moneys, which it should have paid under the Constitution, duplicate credentials for delegates. Upon the expiration of his term of office or retirement from any cause he shall faithfully account for all money or property coming into his hands and all funds or property remaining in his hands or not paid out or disposed of or in due course of the discharge of his official duties, it shall be accounted for and turned over to his successor or such other person who may be duly authorized to take into his custody the funds or property of the Federation. For the honest and faithful discharge of his duties he shall give a bond in the sum of not less than \$30,000, the bond [332] so given to be approved by the Executive Board and kept in their custody. For his services he shall receive the sum of one hundred and fifty (150) dollars per month, which may be paid monthly out of the funds of the Federation, in the same manner as is provided for in the payment of other bills and indebtedness. He shall issue a supplement to his quarterly report of all members suspended, fined or expelled during the quarter.

Executive Board.

Sec. 4. The Executive Board shall constitute the Federation board of arbitration and conciliation, and between conventions have full power to direct the workings of the Federation. No representative

of a union shall be entitled to a hearing before the Executive Board without proper credentials, with the seal of the union attached thereto.

Sec. 5. The Executive Board shall be conveyed by the President, or by the Secretary-Treasurer at the request of three members of the Board.

Sec. 6. The jurisdiction of the Western Federation of Miners shall cover the United States and its territories, and the Dominion of Canada.

Sec. 7. Each member of the Executive Board shall act as an organizer and he shall also be required to make such investigation relative to the condition of each local union, as in his judgment may be necessary, and make a report thereof [333] of the President of the Federation on or before the 10th day of June of each year. In case of trouble arising in the jurisdiction of a union, the member shall be summoned and given full charge in the direction or negotiations until the arrival of the President, who shall be summoned if necessary. For all necessary services rendered in the discharge of his duties, he shall receive the sum of \$4.00 per day and legitimate expenses for such time as he is actually employed, together with his transportation expenses, and he shall at all times be subject to the orders of the President.

Sec. 8. The Executive Board members shall be placed on continuous pay, and kept in the field constantly, and be at all times under the direction of the President, who shall direct their actions in the field, and shall require each member to report weekly the result of his work, and to audit the books of all locals

he may visit and make a thorough report on condition of same.

Sec. 9. All members of the Executive Board and organizers employed by the Federation shall submit monthly reports for publication in the Miners' Magazine, these reports to contain matters of interest to the general organization.

Sec. 10. The Executive Board shall, on demand of ten or more locals, submit all such matters pertaining to such proposition to a referendum vote through the Secretary-Treasurer, [334] not later than fifteen days after receipt thereof; provided that no such referendum shall be submitted which is a reversal of a former referendum within one year. The majority of such vote shall be binding on all parties concerned.

Sec. 11. The Executive Board members shall be delegates at large to the convention and entitled to the same privileges as other delegates at the convention.

Sec. 12. The Executive Board shall have the books and accounts of the Secretary-Treasurer audited semi-annually by a firm of chartered accountants, and a copy of their report shall be forwarded to each local union as soon as possible after the audit is made.

Article V.

Local Union Auditors.

Section 1. The President shall appoint, with the approval of the Executive Board, one or more auditors whose duty it shall be to audit the books and accounts of all unions of the Federation, and to ren-

der to the President a report of his findings in each case.

Sec. 2. Such auditor shall be at all times under the direction of the President. He must be a competent bookkeeper and a member of the Federation in good standing. It shall also be his duty to collect for the use of the Federation such statistics as may be determined by the President and Executive Board and whenever possible solicit [335] subscriptions and advertising for the Miners' Magazine.

Reports of A. F. of L. Delegates.

Sec. 3. Delegates to the A. F. of L. convention shall represent the Western Federation of Miners in convention of the American Federation of Labor and shall render a report to the President of the W. F. M. within thirty days after the adjournment of the A. F. of L. convention.

Article VI.

Revenues and Disbursements.

Section 1. The revenue of the Federation shall be derived from a charter fee of ten dollars and a per capita tax of twenty-five cents per month on all monthly dues collected in accordance with the stamp system, to be paid from the general fund of each union through the purchase of said stamps in advance, and such assessments as may be levied by an international convention or a referendum vote of the members of the Western Federation of Miners or by the International Executive Board for a period of two months pending the referendum vote. The same shall be paid from the general fund, and based

on the preceding monthly report previous to such assessment.

Sec. 2. There shall be levied a fifty cents assessment every three months of each year, at such time when no other general assessment is on, to be known as Protective Assessment for strike benefit, levied as follows: September, December, March and June. [336]

Sec. 3. Any union failing to purchase the required number of per capita and assessment stamps to stamp all membership cards, in compliance with the stamp system, shall be penalized as prescribed by Section 1, Article X.

Sec. 4. Special reinstatement stamps shall be provided by headquarters, locals to be charged two dollars (\$2.00) each per stamp, and required to put such reinstatement stamp on the membership card of each member paying a reinstatement fee.

Article VII.

Official Journal.

Section 1. The Journal shall be issued weekly under the direct supervision of the General Executive Board. The Executive Board shall have the power to appoint the Editor of the Miners' Magazine.

Sec. 2. The pages of the official journal shall be open to all officers and members of the organization for the discussion of social affairs, industrial, economic and political questions, or any other questions pertaining to the interest of the working-class. It shall endeavor to enlighten the membership of the organization on the cost of production of the various

kinds of metals, viz.: iron, steel, lead, zinc and copper, and its market value. It shall endeavor to give statistics showing what wages are being paid to the miners, millmen and smeltermen and steel workers in the different States and territories in the jurisdiction of the [337] Western Federation of Miners. It further shall endeavor to demonstrate what relation there exists between one set of workers and another set of workers, especially those workers who are engaged in the production of coal, iron, steel, lead, zinc and copper, and other precious metals, and it shall at all times advocate the principles of Industrial Unionism.

Article VIII.

Strikes and Adjustments.

Section 1. It shall be unlawful for any union to enter upon a strike unless ordered by two-thirds of the votes cast upon the question; such questions shall be decided by referendum vote, notice of such referendum to be posted three days in advance, vote to be by ballot and polls to be open for not less than eight hours. No call shall be made for a referendum vote on a strike until after having received the approval of the Executive Board of the W. F. M.

Sec. 2. In case of a strike being in progress in the jurisdiction of the Federation, where a union or unions of the Federation is on strike, regularly ordered by the union or unions and the Executive Board, and in the opinion of the President and the Executive Board it becomes necessary to call out any other union or unions in order to carry the strike to a successful termination, that they shall have full power to do so.

Sec. 3. Whenever a strike shall be approved by the Executive [338] Board and local union or unions as authorized by Section 1 of Article VIII, the President shall appoint, with the consent of the Executive Board, a representative of the Federation to take charge of the funds furnished by the Federation for the relief of members involved in said strike or lockout. The representative so chosen shall file a bond with the Executive Board, subject to its approval, in such sum or sums as the Board may determine, he shall make complete itemized returns of all receipts and expenditures, including a list of the persons aided to the Secretary-Treasurer and through him to the Executive Board.

Sec. 4. Local unions or groups of local unions may enter into wage agreements for a specified time, providing such agreements have the approval of the Executive Board. Negotiations for agreements must be made between the representatives of the local or locals affected, and the employers, with at least one member of the Executive Board, or representative of the general organization present.

Article IX.

New Unions.

Section 1. Whenever twenty or more union men shall be so situated within the jurisdiction of a union that the attendance at the meetings of such union would be inconvenient, they may apply to the President of the Federation for a charter. Should he consider their application a proper one for the advancement, both of the interests of [339] the applicants and the Federation, a charter shall be

granted them and their territorial jurisdiction defined. If such applicants are members they must apply to their respective unions for transfer cards, through the secretary-elect. Any union refusing to issue such cards shall be subject to a fine, the amount of which shall be determined by the Executive Board.

Article X.

Penalties.

Section 1. Any union failing to make correct monthly reports to the Secretary-Treasurer of the Federation, thereby evading its just share of the per capita tax and assessments, shall be fined for each offense a sum equal to double the amount so evaded.

Sec. 2. Any local union whose Secretary fails to place the required number of per capita or general assessment stamps upon a member's card shall be subject to a fine of one dollar for each stamp not so placed.

Sec. 3. Any local union whose Secretary fails to forward to the Secretary-Treasurer of the Federation properly filled out monthly and annual reports within twenty days after the same become due, shall be advertised in the Miners' Magazine. This section shall not apply to local unions in Alaska.

Article XI.

Duties and Privileges of Members. [340]

Section 1. Each member at initiation shall pledge himself to support the Constitution of the Federation and obey all lawful orders of the Executive Board, in addition to the obligation required by the union of which he becomes a member.

Sec. 2. If a member of a union commits an offense in violation of his obligation or against the good and welfare of the Federation, his union or any union of the Western Federation of Miners, the general officers, members of the Executive Board, or any members of the Federation, or in violation of the Constitution of the Western Federation of Miners, or affiliated unions, he shall be entitled to an impartial trial by his local union as hereinafter provided. The offense of which he is charged shall be presented in writing to his local union by the members making the charge who at the time must be a member of the Western Federation of Miners in good standing, said charges shall be read by the Recording Secretary of the union, at the first regular meeting of the union after the paper containing the charges are received. When said charges are read the President shall, without discussion, appoint an impartial committee of five members of the union in good standing to investigate such charges whose duty it shall be to present a copy of the charges to the member against whom the charges have been preferred, and notify him when to appear before said committee for trial. Similar notice shall be served upon the member [341] preferring the charges. This committee shall elect a chairman and secretary before proceeding to hear evidence for the plaintiff and defendant and keep a correct copy of the charges and all testimony presented and submit the same to the union with their written report signed by all members of the committee. The union shall either adopt or reject the report of the committee. Either the plaintiff or defendant shall have the right to appeal

to the Executive Board of the Western Federation of Miners and from that body to the ensuing convention. The Executive Board shall receive no evidence in the case except the records of the committee nor permit any witness to appear for the plaintiff or defendant. Should the union fail to preserve the records of the investigation as returned by the committee or refuse to surrender the same to the Executive Board, upon request of the Secretary-Treasurer it shall be subject to whatever penalty the Executive Board may deem necessary to impose upon it.

Sec. 3. The convention shall have the power to bring any official of the Federation, delegate, or member of the Federation before the bar of the convention for trial. The convention shall choose its method of procedure, have full power to record and enforce its verdict. From its decision there shall be no appeal.

Sec. 4. Any one acting as a strike-breaker or scab during a strike in the jurisdiction of the Western Federation [342] of Miners, who professes to have seen the error of his ways, may be placed on probation by the local union involved, or by any local union in whose jurisdiction he may be employed when such charges are preferred against him, provided the local involved grants permission; provided, that this shall in no way apply to any man who has been a deputy sheriff or gun man in the employ of any corporation. Such men shall remain on probation until such time as the local union, in whose jurisdiction he is working out his probation shall declare his offense expiated in full by good work for the cause.

In case of a union being defunct, the Executive Officers of the Western Federation of Miners shall be governed by this provision. The card issued on probation shall be marked "probation card."

Sec. 5. Whenever any member or members of a local union shall be discharged for actively participating in the affairs of the local union, or of the Western Federation of Miners, or on account of his race, color, religious or political beliefs, it shall be the duty of the local union to investigate fully and use all means in their power to have such member or members reinstated in their former positions.

Sec. 6. Whenever any local or district union shall enter into any agreement on contract with their employers, the principles embodied in Section 5 of this article shall [343] be made a part of such agreement or contract.

Sec. 7. Whenever a member of a local union shall become a foreman, shift boss or assume a position that cannot be termed as part of the mining industry, he shall lose all rights to a voice, vote or seat in the meetings of his local union, but may continue his membership as a beneficiary member, or upon application to the Financial Secretary he may be granted a withdrawal card.

Sec. 8. Any member who has been unemployed for one clear calendar month, or more, in the jurisdiction of any local, may retain full membership upon payment of the regular monthly dues, all assessments for the stated period being liquidated by means of "unemployed stamps" provided for the purpose. The unemployed member must obtain the stamps or

stamp from the Secretary of the local in whose jurisdiction he is idle for the required period.

LOCAL UNIONS AND MEMBERS.

Article XII.

Receipts and Accounts.

Sec. 1. Local unions shall preserve all receipts issued by the Secretary-Treasurer and have the same presented to the finance committee at the biennial convention, through their delegates to the convention, in order to compare them with the stub-book of the Secretary-Treasurer. [344]

Password.

Sec. 2. The President shall send to each union which has paid per capita tax and is not ninety days in arrears for assessments, a quarterly password.

Membership Card.

Sec. 3. Throughout the jurisdiction of the Western Federation of Miners a uniform membership card shall be used. The same shall be the stamp card system, approved by the Tenth and amended by the Sixteenth Annual Convention; the form and style of said cards shall provide a space wherein local Secretaries shall record the amount of sick benefits received by each member. Said card shall be designed by the Executive Officers of the Western Federation of Miners.

Withdrawal Cards.

Sec. 4. If a member takes a withdrawal card from to the union to which he belongs and goes to work as specified in Section 1, Article I, of the Constitution, where there is a union of the Federation, he shall at once deposit his card in that union; failing

to do so, he shall be held for dues and assessments from the time he starts to work by the union within whose jurisdiction he may be employed.

Sec. 5. No withdrawal card shall be issued to any member of the W. F. M. except such members who are actually engaged in some occupation not included in the jurisdiction of the W. F. M., or one who permanently retires from the occupation specified in Article I of the Constitution. All dues and [345] assessments must be paid for the month in which the withdrawal card is issued.

Sec. 6. Local unions of the Federation shall have full jurisdiction over all members employed in the jurisdiction of their locals, subject, however, to the right of appeal described in Section 2, Article XI, of the Constitution.

Sec. 7. Local unions shall have power to name the amount to be collected as a reinstatement fee from members six months or more in arrears for dues and assessments.

Sec. 8. Secretaries shall place due stamps on members' cards for back dues collected for reinstatement or otherwise.

Interchangeable Cards.

Sec. 9. Transfer cards and withdrawal cards issued by any chartered labor organization shall be accepted by local unions of the Western Federation of Miners, subject to the rules and qualifications governing members of such locals of the Western Federation of Miners.

Transfer.

Sec. 10. Any member leaving the jurisdiction of

his union and going to work in the jurisdiction of another union of the Federation shall deposit his membership card with the Financial Secretary within fifteen days after going to work and pay all arrearages. The Financial Secretary receiving a member's card, shall within fifteen days notify the union in which the member has a card so that the member's account can be closed in the former union. All arrearages [346] collected other than local assessment, shall belong to the union receiving the membership card, and all advance dues which may have been paid shall be remitted, provided, however, that no advance dues shall be requested for the month in which transfer is made. Any member in good standing transferring from one local to another within fifteen days after going to work in the jurisdiction of the other local, upon signing the Constitution of the local union in which the transfer is made shall be entitled to all the rights and benefits of that local. When a member of a local union goes to work within the jurisdiction of another local and fails to deposit his card within fifteen days after going to work, he shall lose all of his rights and benefits in the union in which he holds membership.

Sec. 11. Any member working within the jurisdiction of a local union and refusing to deposit his card, shall be subject to a fine of not less than \$1.00 nor more than \$50.00, said fine to be left to the discretion of the local union.

Sec. 12. When a member of a local union goes to work within the jurisdiction of another and refuses to deposit his card, it shall be its duty to place

a fine against him and suspend him from any benefits whatsoever. Any Secretary accepting dues from a member who is in the jurisdiction of another local shall be subject to a fine of not less than \$1.00 nor more \$5.00. [347]

Article XIII.

Supplies.

Section 1. All withdrawal and notification cards of the Federation shall be made of uniform size, with stub attachment.

Sec. 2. The Federation has adopted, for the sake of uniformity, the following supplies, which must be procured from the Secretary-Treasurer, except in the Dominion of Canada, where blanks shall be printed to conform with the laws and usages of that country, as well as in conformity with this Constitution, and that the same may be printed in the Dominion of Canada, viz.: Constitutions, withdrawal cards, notification cards, quarterly report blanks, blank bonds for officers of unions, application blanks, ledger, day-book and cash-book, and that it be imperative on the part of all locals to use this system of bookkeeping. Provided, all membership cards and the authorized metal emblems of the Federation shall be procured from the Secretary-Treasurer of the Federation.

Article XIV.

Nominations, Elections and Installation of Officers.

Sec. 1. Nominations of officers in local unions shall be made from the floor. Nominations shall remain open for three regular meetings prior to election, when each Recording Secretary shall, within

ten days thereafter, forward the [348] names of all officers elected to the Secretary-Treasurer of the Federation, who shall compile a directory of the same and forward a copy of these directories to each local union. It shall be optional with each local union as to whether it shall hold annual or semi-annual elections. Installation of officers for local unions shall not take place until the first meeting in July or in January.

Balloting.

Sec. 2. All unions shall, on the demand of five or more members in good standing, take a secret ballot upon any question coming before the union.

Sec. 3. All ballots shall be uniform and names of all candidates shall be placed on one ballot.

Article XV.

Jurisdiction.

Section 1. The jurisdiction of the Federation shall extend to all states and territories and the Dominion of Canada.

District Unions.

Sec. 2. Where a majority of members voting in a district or state deem it necessary, they may organize a district or state union for the purpose of doing business for the district or state. Such unions shall apply to the Federation for, and receive a special charter, said charter to be issued at cost. Such district or state union shall be subordinate to the Federation, but shall be a higher authority than the [349] local unions of the Federation in its jurisdiction. All local unions of the Federation within the jurisdiction of a district or state union shall be

a member of said district or state union and recognize the authority of same.

Defunct Unions.

Sec. 3. When any local union has a membership of less than ten members in good standing, the charter of such local may be considered defunct, and surrender its charter and books to the Federation; and any member of the said union becoming desirous of joining another union of the Western Federation of Miners shall, by paying the dues and assessments he owed in his former union up to the time the books were turned over to the Federation, be transferred to the union to which he makes application.

Sec. 4. The property of defunct unions shall be held in trust by the Federation, and where local unions are reorganized within a period of one year, comprising of twenty or more members of the former local the property so held in trust shall be returned to the reorganized local, but when the locals are reorganized with less than twenty members of the former local, they shall have no claim on the property of the defunct union. At the expiration of one year from the date of the local going defunct the property shall cease to be held in trust and become the property of the Federation.

Sec. 5. Where two or more locals are situated in the [350] same locality or district, and one or more locals become weakened by loss of members or otherwise, they may, by a majority vote of each local interested, consolidate. All money and property shall belong to the union so consolidated, except the charter or charters of the locals ceasing to exist, said

charters to be forwarded to headquarters immediately. The unions so consolidated shall be held for all existing indebtedness.

Article XVI.

Section 1. Each local Financial Secretary must keep a record of all members that are expelled from local unions, and when a person is proposed for admittance into any local of the Western Federation of Miners, the Financial Secretary must first look at the list reported by the Secretary-Treasurer of the Federation and then report to his union the result of his investigation.

Correspondence.

Sec. 2. Each Secretary of the local union shall be required to keep a copy of all correspondence in a copying book suitable for that purpose.

Article XVIII.

Fines and Penalties.

Section 1. Any member who is under the influence of liquor, appearing as a delegate at any convention of the Western Federation of Miners, or failing to answer roll call without being excused by the President, shall be fined for [351] the first offense the sum of one dollar; for the second offense the sum of two dollars; for the third offense the sum of five dollars, and any delegate or delegates who shall have been guilty of such an offense shall be censured and reprimanded by the President, and the union to which he or they may belong shall be notified of his action.

Article XIX.

Legislation.

Section 1. The initiative and referendum shall

govern all legislation. Whenever a local in good standing, delegate or delegation in convention shall, by resolution, offer an amendment to the Constitution, the same shall be considered in the biennial convention, and by that body submitted to the members of the Western Federation of Miners, who shall vote upon the same within sixty days. All locals voting on a referendum shall use—

First. A blank record sheet for the names of all members voting;

Second. Printed ballots with the questions fully stated upon them, with the spaces, so as to vote for or against any question;

Third. That envelopes containing record sheets with names, report blanks, with totals of votes cast for or against all questions, shall contain no other matter, and the word “referendum” should be marked upon the envelope and the same shall not be opened until the date set for compiling [352] the votes of all locals.

After having received the approval of a majority of the members voting upon the question, it shall receive the signature of the President and Secretary-Treasurer, and become a part of the organic law. The Secretary-Treasurer shall canvass the vote on all referendum questions and make up a return sheet, setting forth the vote of each local, and furnish all locals with a copy of the same.

Article XX.

Emergencies.

Section 1. Whenever a vital circumstance, not otherwise provided for, arises and the same cannot in justice be deferred until the assembling of the

convention, the Executive Board may submit any important question so arising to a referendum vote of the entire membership in good standing, in the manner described in Section 1, Article XIX. The majority of such vote to govern in all cases submitted.

Sec. 2. Whenever a proposition of vital importance presents itself to the membership of the W. F. M., not otherwise provided for, the Executive Board shall, on demand of ten or more locals, submit all such matters pertaining to such proposition to a referendum vote through the Secretary-Treasurer, not later than fifteen days after receipt thereof; provided that no such referendum shall be submitted which is a reversal of a former referendum within one year. The majority of such vote shall be binding on all [353] parties concerned.

Sec. 3. This Constitution shall not be amended except by a majority vote of all delegates assembled in convention or by initiative petition adopted at three regular meetings of at least ten locals of this organization, representing at least five per cent of the whole membership, the same to be approved by referendum vote as described in Section 1, Article XIX.

ORDER OF BUSINESS.

1. Call the meeting to order.
2. Warden, secure the door.
3. Presentation of credentials.
4. Appointment of committees.
5. Roll call.
6. Reading of minutes of previous meeting.

7. Communications and correspondence.
8. Bills.
9. Reports of officers.
10. Reports of standing committees.
11. Special committees.
12. Unfinished business.
13. New business.
14. Election of officers.
15. Good and welfare of the Federation. [354]
16. Installation of officers.
17. Adjournment.

RULES OF ORDER.

During the continuance of the meeting silence must be observed, the officers and members retaining their respective seats, and no one leaving the room without permission of the President or Vice-President.

No member shall, by conversation or otherwise, interrupt the business of the Federation or refuse to obey the chair.

The President, while presiding, will state every question coming before the Federation, and immediately before putting it to a vote shall ask: "Are you ready for the question?" Should no member rise to speak, or by silence indicate their readiness, he shall rise to state the question, and after he has risen no member shall be permitted to speak upon it. He shall announce the result or decision of the Federation upon all subjects.

Every member, when he speaks or offers a motion, shall rise and respectfully address the presiding officer. While speaking he shall confine himself to

the subject under debate, avoiding all personalities and indecorous language, as well as any reflections upon the union or its members.

Should two or more members rise to speak at the same [355] time, the chair shall decide who is entitled to the floor.

No member shall disturb another in his speech unless to call him to order for words spoken.

If a member, while speaking, shall be called to order, at the request of the chair, he shall cease speaking and take his seat until the question of order is determined, when, if permitted, he may again proceed.

No member shall speak more than once on the same question until all the members wishing to speak shall have had an opportunity to do so, nor more than twice without the permission of the chair.

When any communication, petition or memorial is presented, before it is read a brief statement of its contents shall be made by the introducer to the chair.

No motion shall be subject to action unless seconded and stated by the chair.

Any member may call for a division on a question when the sense will admit it.

When a question is before the Federation no motion shall be received unless to close the previous question, to lay on the table, to postpone indefinitely, to refer, to amend, and shall have precedence in the order herein arranged—the first three of which shall be decided without debate.

After any question, except one of indefinite postponement or one the result of which the Federation

cannot reverse, has been decided, any member who voted in the majority may, [356] at the same meeting, move a reconsideration thereof.

No amendments shall be received except they are in writing.

All questions not provided for by the Constitution, By-Laws, Rules of Order, or by the General Laws of the Federation, shall be determined by a majority of the members at a regular meeting.

These rules may be suspended for a special purpose by a vote of two-thirds of the members present.

Roberts' Rules of Orders shall govern the proceedings of the Federation in the absence of any rules not herein provided for.

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(Testimony of Charles Baxter.)

Cross-examination by Mr. HILTON.

The WITNESS.—I stated to the counsel that I was familiar with the phraseology or wording of the original charter, that I had seen it several times and read it and to the best of my recollection it did not contain any forfeiture clause, and that is right. I could not repeat just what it did contain. I have belonged to several labor organizations in different parts of the country, and the charters are pretty near all running in the same way as to their objects, and it seems to me that this charter was very similar to the old Knights of Labor charter, of which I was a member on different occasions. But one of the reasons which drew my attention to the forfeiture clause was that it was discussed and discussed repeatedly among members [359] of the union, by the individual members, and also as I stated before at at least one meeting that I was at. The only notice that I ever knew of or heard at all, by motion or evidenced by any record relating to the charter here whereby the charter was questioned because it contained that forfeiture clause, after the receipt of that charter by our membership, was when Pat Lee, who was Secretary-Treasurer, said he sent to Denver, and it was discussed under the head of good of the order. As far as my knowledge goes it was not discussed excepte as to the litigation of the matter. Now, I am speaking with reference to the last charter. There was an effort made to return this last charter to the Federation. It was offered to Mr. Mahoney one day when I was up paying my dues at

(Testimony of Charles Baxter.)

the office. That was the only tender that was made of the charter to return. I could not say whether that was done by reason of any order or action taken by the local. It was done by one of their officers. Pat Lee was the man who tendered that back, and was having a conversation with Mahoney. I cannot tell whether he was authorized to tender it to Mr. Mahoney by action of the local or not. He was one of the officers. Mr. Lee's action in tendering it back to Mr. Mahoney was never afterwards brought before the local to my knowledge. In my hearing at the time it was tendered back, Mr. Mahoney did not tell Mr. Lee that if it was the desire of the local to return it that there was a way to do it. Mr. [360] Mahoney said "I don't want it."

This is my signature attached to this document which has been marked Plaintiffs' Exhibit "F" for identification.

Document received in evidence, marked Plaintiffs' Exhibit "F," and is as follows:

Plaintiff's Exhibit "F"—Petition, November 23, 1914, of Members of Butte Miners' Union, No. 1 to President of Western Federation of Miners.

Butte, Mont., Nov. 23d, 1914.

To Chas. H. Moyer, President of the Western Federation of Miners, Denver, Colo.

We, the undersigned, members of Butte Miners' Union, No. 1, W. F. of M., hereby petition you under the constitution to take full and complete charge of the affairs of this union and submit as our reasons for requesting such action, that the officials and trus-

tees of said union have been and are acting in violation of the constitution of Butte Miners' Union and of the Western Federation of Miners and further that there has been utter inefficiency and disregard of the best interests of the organization and the principles of unionism.

We submit the following: (1) Violation of the constitution by packing the meeting with men in arrears, some of whose names were not on *on* the books of the union, giving them a voice and vote in matters of great importance. (2) Refusal of Secretary-Treasurer, aided and abetted by the president to submit books and accounts for examination. [361] (3) Failure of walking delegates to render any report to the union or put forth reasonable effort to increase the membership of this union. (4) Stamps on members' card without entry on books of receipt. (6) Willful waste in the disbursing of funds, especially the sick relief, the constitutional notice to secretary not being complied with. (7) That indifference to the welfare of the organization is clearly manifested by the failure of various officials and trustees to keep in good standing.

(Signed) Tim J. Lynch	Wm. Luma
Ed O'Byone	John Toomy
J. C. Lowney	Dan O'Leary
A. M. Maleta	Mike Harrington
Jalmer Koskinen	Dennis Murphy
F. H. Shields	Jacob Oliver
John Pearson	Charles Baxter
E. G. Huntley	W. H. Schauf
Oskal Karri	Patrick King [362]

(Testimony of Charles Baxter.)

The WITNESS.—This was the last of November, 1914, more than a month after the receipt of the charter that I have testified to. I could not give you the date of this conversation which I claim was had in my presence with Mr. Mahoney. At that time there was very little conversation. I was there to pay my dues. I was loafing around town and came up to pay my dues, and while I was there Mr. Mahoney came in and I went and picked up a Miners' Magazine and this conversation was on and I walked out leaving them there. That was all the conversation I heard between them with reference to the charter. That conversation took place after the time that they had entered suit on this petition, but any further than that I could not give you the date. I was off work all summer and was in the habit of going up to the office of the Miners' Union four or five times a week. It was in 1914, but I do not remember the month. I really could not state whether it was before the time I signed this application to the Federation to take over the affairs of the Butte Miners' Union No. 1.

Redirect Examination by Mr. BREEN.

Q. Who presented exhibit "F" to you?

Mr. GEAGAN.—To which we object as incompetent, irrelevant and immaterial.

Which objection was by the Court overruled, to [363] which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. Guy Miller, the personal representative of C. H. Moyer.

(Testimony of Charles Baxter.)

The WITNESS.—Guy Miller is one of the members of the executive board. I cannot state who prepared this, and do not know of my own knowledge whether Guy Miller prepared it or not. I was in my own home when this was presented to me, and my home is on South Colorado Street, Number 2530.

I was in department two of the District Court of the Second Judicial District of the State of Montana, in and for the County of Silver Bow, when Guy Miller was on the stand and being interrogated in regard to this.

Q. Did you hear him testify at that time that he had, or admit that he had, gone to every individual whose name appears here, to solicit their signatures to this?

Mr. HILTON.—I submit that would be wholly incompetent.

Which objection was by the Court sustained, to which ruling the defendant then and there duly asked for and was allowed an exception.

Q. After this there was a suit brought by Mr. Miller and others in the District Court in regard to what is set forth here, was there not?

Mr. GEAGAN.—We object to that as calling for a conclusion of the witness, the best evidence being the record [364] itself.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. Yes, sir.

Q. During all of the times and since the matter

(Testimony of Charles Baxter.)

was decided by the Supreme Court on the 3d day of July, last, you have been a member of the Butte Miners' Union, a corporation, defendant here, have you not?

Mr. GEAGAN.—To which we object, if your Honor please, as incompetent, irrelevant and immaterial; and on the further ground and for the further reason that there is incorporated in the question a statement which calls for a conclusion of the witness as to what was stated by the Supreme Court of the State of Montana; on the ground and for the reason that the Supreme Court of the State of Montana has never handed down any opinion or rendered an opinion as to what position they took, save and except to grant a supervisory control for the setting aside of a certain restraining order issued out of the district court.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. I have been continuously a member in good standing since May, 1898, the last time.

(Witness excused.) [365]

Testimony of Jacob Oliver, for Defendant.

JACOB OLIVER, a witness called on behalf of defendant, being duly sworn, testified as follows:

Direct Examination by Mr. BREEN.

The WITNESS.—My name is Jacob Oliver, and by profession I am a miner. I have lived in Butte thirty-one years, and most of that time I have been

(Testimony of Jacob Oliver.)

a member of the Butte Miners' Union, a corporation, defendant here. I was a member of the Butte Miners' Union prior to 1893. I became a member first in 1885. I recall the organization of the Western Federation of Miners.

Q. Mr. Oliver, prior to the Butte Miners' Union becoming a member of the local of the Western Federation of Miners, was there any argument or discussion as to what their rights, or what liabilities would be incurred by becoming a member?

A. There was considerable.

Mr. GEAGAN.—To which we object as incompetent, irrelevant and immaterial, and not within the issues of the case at bar, and that whatever discussions there were, if there were such discussions, were merged in the contract as evidenced by the charter of the Western Federation of Miners' to the Butte Miners' Union, a corporation, and that the same could not be contradicted by evidence relating to any discussion prior to entering into the contract upon any evidence not evidenced by any record, and if not shown [366] that there was any discussion taken by the organization as a corporation.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

Q. Will you state what was done and what examination and investigation or understanding was had before the Butte Miners' Union voted to become a member of the Federation?

(Testimony of Jacob Oliver.)

Mr. HILTON.—We object to that, unless the question goes farther and shows between who that understanding was had.

The COURT.—Any understanding; if there was any discussion let him state the substance of it with reference to what would be the effect of joining the Federation.

Mr. BREEN.—That is what I am aiming at.

The COURT.—Let him state that. You understand, he is asking you if anything of the sort took place in the Union.

A. In the Union Hall?

Q. That is what I mean. I don't mean anything on the sidewalk.

A. There were discussions for several meetings pro and con, as to the result of the Butte Union joining the Federation. In fact, I was one of the fellows who were opposed to the organization of the Western Federation, and I know— [367]

Mr. GEAGAN.—I move that that statement of the witness be stricken out.

The COURT.—Denied.

A. (Continuing.) —and I know one of the points that was asked of the fellows, you might say the opposition, was this: In case of trouble in the Coeur d'Alenes, there had been trouble over there, and our union was an incorporated body and the other unions were unincorporated, or voluntary associations, and there was any property destroyed or any lives lost, would we be held liable; and we were told frankly, no; and with that understanding we practically, well,

(Testimony of Jacob Oliver.)

we were unanimous, finally, in joining the Federation.

Q. Was there any discussion as to whether you saw fit to withdraw, or did not like your surroundings, that your property would be taken over or confiscated by the Federation?

Mr. HILTON.—Leading, and we object to it.

The COURT.—Sustained.

The WITNESS.—I recollect when the charter was issued. I could not say exactly what it contained. I saw it hanging there on the wall.

Q. Did that charter that you received contain a forfeiture clause of the kind that is referred to in this second charter or put in the pleadings here?

A. Not to my knowledge.

Mr. GEAGAN.—Just a moment. We object to that as leading [368] and suggestive, the witness having testified that he did not know.

Which objection was by the Court overruled, to which ruling plaintiffs then and there duly asked for and were allowed an exception.

A. Not to my knowledge.

The WITNESS.—I presume I read the charter lots of times, and I think I would have seen it if it were there. On the charter were a list of I think ten names taken from the old charter, or the original charter, members of the Butte Miners' Union; I think it was ten of the original names. I saw the last charter which was received, once.

Q. Did you observe at the time that you saw that,

(Testimony of Jacob Oliver.)

that that was or it was not a duplicate of the former charter?

Mr. GEAGAN.—We object to that as calling for a conclusion of the witness.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. That was very marked; the difference was very marked.

The WITNESS.—The difference was very marked, and anyone would notice the difference. My attention was called to the forfeiture clause in the last charter by, I don't know who, someone in the hall, one night, and the question was [369] brought up under the order of good and welfare, and I says, "I understood this matter was settled." Someone said, I can't say who, "Why, we can't accept this charter; it is out of the question. If we take this charter Moyer can come and grab our property any time." And I think it was Pat Leahy said, "We don't want this charter, and we *don't* have it, and we are not going to have it." The charter was never accepted or worked under.

Q. When you observed this charter, did that call your attention to this difference in the old charter as relating to the forfeiture of property?

A. Well, the most marked difference, of course, was the names. That would be the first thing a person would notice that had seen the old charter and the new, because you generally notice the names

(Testimony of Jacob Oliver.)

on a document of any kind; that is the first thing you notice is the signatures.

At this meeting in October of 1914, when the last charter was received, the members just passed it up, unanimously, that it could not be accepted. In fact, they hardly discussed it. I noticed one forcible remark made by Pat Leahy. He said, "We won't have it, and we ain't going to have it; we can't stand for anything like that." The reasons why it would not be accepted were discussed at that meeting, the forfeiture clause there which as Mr. Leahy said, "Why, Mr. Moyer can come here and grab the property, grab everything we got, if we don't comply with the rules [370] and regulations," or something to that effect, "of the Western Federation." I had several discussions with Mr. Mahoney in regard to the suit then pending in the court in the city of Butte here.

Q. Well, Mr. Oliver, did you in the city of Butte have a discussion with Mr. Mahoney about what he intended to do with the money of the Butte Miners' Union if he and others had been successful in the suit that was then pending?

Mr. GEAGAN.—We object to that as incompetent, irrelevant and immaterial, it not being material to the issues herein, for the reason it don't show it was between the same parties or for the same purposes.

Mr. BREEN.—There is some slight difference, I will admit that, between the parties, but it was for the same property in both instances.

Which objection was by the Court sustained, to

(Testimony of Jacob Oliver.)

which ruling the defendant then and there duly asked for and was allowed an exception.

The WITNESS.—At the time this Federation was organized in May, 1893, the Butte Miners' Union, this defendant, had property, and it consisted of the lot the hall was on, on North Main, and the loan of, I think, it was ten thousand dollars to Granite Miners' Union, and something like fifty or sixty thousand dollars in the bank. That property was accumulated from dues collected from the miners and members. The uses those dues were put to were to pay sick benefits, [371] funeral expenses, and payment of the officers who conducted the affairs of the union.

The money that built the hall, the first money, we got some money from W. A. Clark, he made us a loan to build the hall, but the money that paid for the hall came from the miners in shape of dues. The union owned a library at that time. The hall was not in the same condition it is now. It was a stone and brick building with offices and hall. It was considered one of the most substantial buildings in the city. It had two stores. I do not know the exact dimensions of it, nor could I tell exactly the width and length of it, but I think it was something like fifty odd feet wide and a hundred and forty feet long; or somewhere about that; I don't know exactly. The Western Federation of Miners never contributed one dollar to the property now owned or possessed by the Butte Miners' Union, or being owned or possessed by it, since the birth of the

(Testimony of Jacob Oliver.)

Western Federation of Miners, to my knowledge. I was a pretty regular attendant, and if they ever did, I should have heard of it.

Cross-examination by Mr. GEAGAN.

The WITNESS.—There have been several members of other unions, locals of the Western Federation of Miners, coming to Butte and transferring into the Butte Miners' Union, [372] the Western Federation of Miners; from the United Mine Workers, for instance, from unions in Europe and Australia; from unions in Colorado and in Utah, and in Nevada, and in California, and other different States. The Western Federation has no unions in Europe. I think these men also transferred from British Columbia. These men, whoever transferred into the Butte Miners' Union from other locals of the Western Federation of Miners, paid their dues and assessments into the union after they were transferred. Generally by depositing one dollar they became members in good standing. They have done that right along since the formation of the Western Federation of Miners, I believe, in 1893. When I spoke of Mr. Leahy having said something at a meeting of the Butte Miners' Union relative to the charter, I meant Pat Leahy, the policeman. Mr. Leahy said there was action taken by the union as an organization with relation to that charter that night that I speak of. To my knowledge, there was not. We never took a vote on it, my recollection. I couldn't say there was or was not; but I know at

(Testimony of Jacob Oliver.)

this meeting when that question was brought up by Mr. Leahy, he says, "We have got through with that." That was Mr. Leahy's statement. I could not say whether there was any motion made and entertained or not, and I do not recollect whether there was at any time I was present at the union. I never heard any such motion discussed on the floor at any time while I was present at the meeting. At [373] that meeting, if my memory serves me right, I was a little late when I came in, and there seemed to be a general understanding there that they refused the charter. Mr. Leahy made the most forcible remark. That was all that was done, I believe, at that meeting.

My signature appears on this document, Plaintiffs' Exhibit "A," which you have handed me. At that time I was a member of the Butte Miners' Union, and of the Western Federation of Miners. I don't know what became of the charter. My understanding was that it was returned to the Western Federation of Miners, but I could not say whether it was or not of my own knowledge. I saw it out in the office after the time I speak of that Mr. Leahy made these remarks.

Redirect Examination by Mr. BREEN.

The WITNESS.—Members came into Butte, journeymen miners came into Butte since the birth of the Miners' Union in 1878. When they came at that time, the first charge as I understand, as initiation fee, was one dollar. The initiation fee for a

(Testimony of Charles Baxter.)

new member was five dollars, and then after the miners began to organize, when a miner came along who was a member of the Miners' Union, providing he had a card, was accepted for a dollar. According to that, we would be four dollars short under that arrangement of what it was [374] before, for each member. They had come to Butte for a good many years before the Federation came.

Q. And at the time that Mr. Geagan refers to in reference to this second charter they sent in October, about the fifth or twelfth of October, the discussion that you had there was—were they discussing this forfeiture clause generally, not alone Mr. Leahy, but the members generally, at the time you referred to?

Mr. GEAGAN.—We object to that as leading and suggestive and improper redirect examination.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. Well, it seemed to be the general understanding there.

Recross-examination by Mr. GEAGAN.

The WITNESS.—This five dollars that I speak of was always charged to the new members and was the regular initiation fee, I believe.

Q. And it was a dollar when he had a card showing his membership in some other union that was affiliated with you?

A. It didn't make any difference whether it was

(Testimony of Jacob Oliver.)

affiliated with the Western Federation or not.
[375]

It didn't cut any ice just as long as the man had a card showing that he was a union man in a labor organization, and he was admitted for a dollar if he came from Australia or Africa, or any State of the Union. That was not always the custom; I don't think that was always the case. That has been the case ever since before the Western Federation was organized.

(Witness excused.) [376]

Testimony of William E. Deeney, for Defendant.

WILLIAM E. DEENEY, a witness called on behalf of defendant, being duly sworn, testified as follows:

Direct Examination by Mr. BREEN.

The WITNESS.—My name is William E. Deeney, and I am a stationary engineer. I came to Butte on the 10th day of January, 1885. In those days I was a miner and was mining in the Mat mine, at that time. I mined off and on for fifteen or sixteen years, at that time, sometimes for a company and sometimes for myself. I was a member of the Butte Miners' Union, a corporation, from four days after my arrival in Butte, and remained a member up to 1894 or 1895. I recall the time of the organization of the Western Federation of Miners, in May, 1913. I was a pretty regular attendant of the meetings of the Butte Miners' Union at that time, and I recall visiting the union during the time, visiting the Butte

(Testimony of William E. Deeney.)

Miners' Union during the times that the Western Federation was in session and delegates forming the Federation. I heard discussions in the Butte Miners' Union as to the purposes and objects of the Federation, and explanations made by the delegates and members of the Butte Miners' Union during that time. During this time referred to, in the early part of May, 1893, I heard discussions as to under what terms and conditions the Butte Miners' Union would accept a charter with the Federation and become one of its members. It was discussed for some time before [377] they adopted the charter. The discussion at that time which was very heated on one or two occasions was that we gave no permission to the Western Federation to have any claim to the property, money, or anything belonging to the local here in Butte. At that time the Butte Miners' Union owned the Miners' Union Hall, which was destroyed recently; and they had made a loan to the Granite Mountain Miners' Union, they had organized; they had made a loan to the Coeur d'Alene country in 1892, and they had, I think, between eighty and fifty thousand dollars in the bank.

When we first agreed to become a local of the Western Federation of Miners, I examined the charter presented to the Butte Miners' Union for its acceptance. It was presented to the members sitting on the east side of the hall by a member visiting here, I think by the name of McCoy, and we looked it over. I remember I did. This was a draft, and this draft was discussed in the Union. This charter

(Testimony of William E. Deeney.)

did not contain any forfeiture clause of the property.

I later saw the printed charter that was accepted by the union and hung on the wall. I think that was printed by Johnny Fogarty, who was then a member of the union, and was proprietor of the "By-Standard," a local paper here, and he asked, I believe, for the privilege of printing or doing that work at that time. There were a number of names on that charter, I don't know how many, the majority or nearly all of them are dead. The charter in [378] size was about fourteen inches by twenty-two inches or twenty-four inches, while I am not swearing to that, that is my recollection.

Q. Do you know whether or not this charter was examined for the purpose of preventing any forfeiture of the property or getting in any shape that would hold the property or the Butte Miners' Union liable?

Mr. GEAGAN.—We object to that, if your honor please, as incompetent, irrelevant and immaterial, unless it is shown by whom he refers to as making the examination.

Mr. BREEN.—I mean the members of the Butte Miners' Union in session.

The COURT.—You may answer.

A. That was the purport of the argument; that is what caused all the discussion, was to know whether it contained a clause of that kind or not, and on finding out that it contained no clause of that kind, I think you were the man that moved that it be

(Testimony of William E. Deeney.)

adopted, without that clause being inserted; I am sure you are.

The WITNESS.—At that time I am sure there was no forfeiture clause of any property or any property of the union. That is what caused all the discussion. That was the draft. Afterwards I looked at the print, and it was in accordance with the ruling of the draft. I examined the printed charter after to see if it was a correct reproduction of the draft. I remember on one occasion I had some misunderstanding [379] with James C. Duffy, who was afterwards secretary of the union in Granite Mountain, about a matter, and we travelled to the Hall and examined; and some others, and I examined it on several occasions. I mean when it was first presented, first accepted and hung up and framed. I examined it at that time and seen the printed form was the same. I am a member of the Western Federation at the present time, belonging to the Stationary Engineers, 83.

Q. What is the character of the membership? I believe that is all agreed, that it was a voluntary membership.

The COURT.—Yes, no doubt on that.

The WITNESS.—I know the purpose of organizing the Federation, the reason for organizing it. I know from prior discussions, that the intention was that there should be one general organization of miners in the State of Montana and in the west, that there should be one constitution and be *on* initiation, and that on the payment of one dollar they could be

(Testimony of William E. Deeney.)

transferred from one local to another. I have many times read the first constitution issued by the Federation of Miners.

Q. Did that constitution contain any forfeiture clause, or authorize the taking of the property of any withdrawing local from the Federation?

Mr. GEAGAN.—We object to that, if your honor please, as incompetent, for the reason that the constitution itself is the best evidence of whether it contains such a clause or [380] not.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. No, there was no clause of the kind to my knowledge in the constitution, that is the first constitution.

The WITNESS.—I have seen the constitution as amended from the birth of the organization, the various constitutions as they have been amended and brought down to date, but I have not perused or read them; I don't know what they contain. I don't know whether they contain that; don't know what has been added to them or taken from them.

The moneys and property of the Butte Miners' Union, a corporation, was accumulated by a dollar a month membership, by twenty-five cents per quarter and a dollar a year—I thought you asked about the Federation. The Butte Miners' Union paid a dollar a month. Further moneys were accumulated by picnics, by little entertainments, and by the renting out of the building and the hall after it was com-

(Testimony of William E. Deeney.)

pleted. This money that was collected from those dues and from entertainments and rentals was to be used for the support of widows and orphans, burying the dead and paying sick benefits to those who were unable to support themselves and paying dues. The Butte Miners' Union, from the time that I became a member of it, paid out of this fund funeral expenses and sick benefits for its members, and [381] took care of orphans and widows of its members regularly. They purchased a library, and I have mentioned loans to other unions. During the time that I was a member of the Butte Miners' Union, after the organization of the Federation of Miners, the Western Federation of Miners never contributed one dollar or one cent in money, or did they contribute any other property to the Butte Miners' Union, a corporation.

Q. And since the time that you have followed engineering, and been a member of Western Federation of Miners, are you familiar with what has been done by the Miners' Union for the Federation, and by the Federation for the Butte Miners' Union?

Mr. GEAGAN.—Now, we object, if your honor please, as incompetent, irrelevant and immaterial, not within the issues of this case.

Q. As a member of the Stationary Engineers and a local of the Western Federation of Miners, are you authorized to visit and allowed to attend meetings of the Butte Miners' Union?

Mr. GEAGAN.—To which we object as incompetent, irrelevant and immaterial, unless the time is

(Testimony of William E. Deeney.)

specified as to when he would be permitted to attend.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. Yes, sir. [382]

The WITNESS.—I am familiar with the business dealings between the Butte Miners' Union, a corporation, and the Western Federation of Miners, during the years that I have been a member of the Engineers' Local up to the time of the withdrawal of the Butte Miners' Union; been familiar with the relationship between them, and during the period of time last mentioned the Western Federation of Miners never contributed one cent or one dollar or any other kind of property to the Butte Miners' Union.

Q. Mr. Deeney, the plaintiffs in this action have alleged that they have brought suits in actions of law on behalf of the union. What do you know as to that?

A. I don't know that they ever paid for the fighting of any suits, but I know that we paid for the defending of the Western Federation officers.

Mr. GEAGAN.—We object to the last statement of the witness as a voluntary statement and not responsive to the question, and ask that it be stricken.

The COURT.—Let it be stricken.

Q. Mr. Deeney, do you know of your own knowledge of the Butte Miners' Union, out of its local funds, employing counsel to defend the officers of the Federation.

(Testimony of William E. Deeney.)

Mr. GEAGAN.—We object to that as incompetent, irrelevant and immaterial, and not within the issues of this case.

The COURT.—I can't see how it would affect the legal [383] situation at all.

The WITNESS.—This charter marked Defendant's Exhibit 3, the charter received by the Butte Miners' Union on or about October 5, 1914, is not a duplicate of the charter received by the Butte Miners' Union on or about the 15th day of May, 1893; it is not a duplicate of the one that was destroyed. It varies and differs from the one that I first saw, the original draft, and later the printed form of, with reference to that clause as to the property rights and so forth. I can't exactly word it as it is there.

Q. Are there any of the names of the honorary roll on this charter that was just shown you?

A. I didn't notice the names; I just read the witnesses in the center of it. Mr. Moyer and Mr. Miller, yes.

There are no names of the old charter members of the Butte Miners' Union that were referred to by Mr. Oliver as the honorary roll. It is hard to recall the names of the men that were on there, it is a long time ago,—John Eddy, one of the first members, and Bob Feltz, who was secretary in 1886—well I forget the names of those who were on it. I would not attempt to testify to the names.

Cross-examination by Mr. HILTON.

The WITNESS.—I do not remember when the first convention organization of the Western Federa-

(Testimony of William E. Deeney.)

tion of Miners was [384] dated. It might have been in the neighborhood of on or about the same time that I have testified that the Butte Miners' Union local obtained the charter, the 15th day of May. I believe it was exactly that day that the Western Federation of Miners was organized. I am not sure who was the first president of the organization. I think the name was Joe Thomas, but I am not sure. I don't remember the name of the president of the original organization, the first organization of the Western Federation of Miners, but I think the name was Joe Thomas. The original issue of charters was made or had by the Western Federation of Miners at that time, after being thoroughly discussed in the neighborhood of May, 1893, and about the time when the Butte Miners' Union received their first charter. I do not remember how many charters were printed by order of the Federation at that time. I saw the draft of that charter that was ordered by that body. I believe the man who did the printing, John Fogarty, showed it to me. I would say that the original charter first issued by order of the Western Federation of Miners did not contain the forfeiture clause. I am speaking of the charter the Butte Miners' Union had and not charters in general. I do not remember who signed the first charter issued to the Butte Miners' Union, as president and who as secretary. But I think I just stated I thought Joe Thomas was president. I have no recollection as to who was secretary. The [385] charter that I saw of 1914 contained that

(Testimony of William E. Deeney.)

clause that we objected to in 1893. The charter that was accepted in 1893, there was a heated discussion on one or two occasions about adopting it as presented by that committee from the convention, and by eliminating that clause it was adopted. I do not know that I ever saw any record of that action, but I should think that there was some made of it. There is nothing of record in existence now that I know of that would show what the action of the local was in the adoption of that charter. There is nothing of record that I know of on the part of the Butte Miners' Local repudiating the last charter of 1914. I don't know of any of the documents that now remain. I was present at a time when a discussion was had when that was objected to because it didn't conform to the other one and the action taken was that the local would not accept it as presented with that clause in it, the charter with reference to the forfeiture. That was in 1893, and I think it was in May, or the latter end of April. I think the result of their action was made a matter of record, but I am not sure. There was a motion made by Mr. Breen, who was then a member, that the charter be received by eliminating that clause, and it was seconded I think, by a man named Michael,—I am not sure—McLeod, and action taken that it be adopted by eliminating that clause. I think that was made a matter of record. Yes, it was a matter of consequence, and it would be. [386]

Redirect Examination by Mr. BREEN.

The WITNESS.—I do not know what has become

(Testimony of William E. Deeney.)

of the records of the Butte Miners' Union that were in existence and used at the time I referred to in 1893, since its birth, except by hearsay. I don't know what happened to it. I understand they were all destroyed on the 13th of June, 1914, or the major portion of them.

(Witness excused.) [387]

Testimony of Frank O'Connor, for Defendant.

FRANK O'CONNOR, a witness called on behalf of defendant, being duly sworn, testified as follows:

Direct Examination by Mr. BREEN.

The WITNESS.—My name is Frank O'Conner, and I have resided in Butte about twenty-seven years. I am a miner, and have been a member of the Butte Miners' Union. I joined the defendant, the Butte Miners' Union, in the month of February, 1891, and was a member of the Butte Miners' Union in 1893, during the spring months. I have held the offices of secretary, president, treasurer and several other offices in the Butte Miners' Union. I was president four or five terms, I believe. I could not tell you just exactly because on account of resigning as president I would not be able to tell you the correct date. I was a member of the Butte Miners' Union, this defendant, at the time of the formation of the Western Federation of Miners.

Q. Were you present at any meetings when any question of organizing the Federation or becoming a local of the Federation, prior to the 15th of May, 1913?

(Testimony of Frank O'Connor.)

A. Yes, I was at the meetings, but I couldn't swear that I remember anything just what happened. I was at the meetings, any number of them.

I was a regular attendant at the meetings when my shift was such that I could attend.

Q. And was this matter of becoming a local of the Federation [388] ever discussed while you were present prior to May 15, or on or about May 15, 1913?

A. I would swear that I heard it discussed, but then I could not give any day or date for it.

It was the regular discussion at the meetings, I know, but I could not give the dates. I have seen the charter received from the Western Federation accepted by the defendant, the Butte Miners' Union, bearing date of May 15, 1893, the first charter, and have examined it.

Q. Describe it as far as you can generally; I mean, describe, that is as far as contents and what was on the face of it, as far as you can, generally.

A. From the discussion that come up at the meetings on the charter, I have formed my opinion—

Q. Well, from what you seen, I mean.

A. Yes,—

Q. Well, tell us what that was. What did the charter provide, do you understand me?

A. I do, yes.

The COURT.—Well, let him take this Aspen charter and read it over and tell us what difference there was.

A. I will answer the question, if your Honor

(Testimony of Frank O'Connor.)

please, on them grounds. When the new charter came in, that is the time I offered my objections right in the hall; I offered my objections to this charter, that is, the new charter. [389]

Q. I don't mean the new charter. The one I am talking about is the old one, the first charter received, that was in use until destroyed on the 13th of June, 1914; the old charter and not the new one, do you understand me?

A. I do. I seen the charter and read it over.

The WITNESS.—It did not contain a forfeiture clause of the property of the Butte Miners' Union. I recall the Butte Miners' Union, this defendant, applying for a reissuance of this charter that was destroyed on June 13, 1914. I was in there, I believe, when it was taken up there. I recall the arrival of the charter that came about that request. This charter that was received some time in the early part or the middle part of October, 1914, was not a duplicate or reissuance of the charter that had been destroyed and that had hung for years on the wall. It differed in that they controlled the whole property; they would take all our property; that is, they would take the Butte Miners' Union property under the clause they had in here, by accepting the charter they would take all our property and we objected to it.

Q. Was this charter that arrived in October, 1914, ever accepted by the Butte Miners' Union, the defendant here?

(Testimony of Frank O'Connor.)

Mr. GEAGAN.—We object to that as a conclusion of the witness.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for [390] and were allowed an exception.

A. I was not at the meeting that it was accepted or rejected, but we objected to it before the meeting. The charter was not brought before the meeting at any time I was present and any attention called to it or any discussion had on it as I remember; not at a meeting, but it was called to our attention outside, before the meeting. At that time some of the members that were there talked it over and said, "That charter is no good," and said not to accept it.

Q. What action was taken, if any, that you know of at the meeting?

A. I was not at the meeting.

Q. I mean at a session of the Butte Miners' Union?

A. Well, I was not at the meeting that it was rejected.

Q. Well, what do you mean when you say, "rejected"?

A. Well, it was rejected before it went to the meeting.

We rejected it before it went to the meeting. I was not at the meeting it was taken up. When the charter came it was read over, and I think Mr. Leahy and some of them objected to the clause in it, and we decided that we would not accept it, that is, not at the meeting, but outside of the meeting. That

(Testimony of Frank O'Connor.)

was some time prior to the meeting night. I do not know what was done at the regular meeting night.

During the time that I was a member of the Butte [391] Miners' Union here, prior to 1893, the Butte Miners' Union had a constitution and by-laws. There ought to be some of those constitutions in existence now; I might have one home myself; I believe I have of 1893, but maybe not.

Q. Do you know whether or not there are any of them preserved by the Butte Miners' Union, the defendant here, or any of them saved out of the wreck of 1914, June 13th?

Mr. GEAGAN.—We object to that as immaterial, the witness testifying he very likely has one himself.

The COURT.—He may answer.

A. I don't know that I have; I might have one.

The COURT.—You were asked whether or not you know if the Union has preserved any or not.

A. The Union has not preserved any.

Q. Do you recall whether or not there was a provision in the constitution in use in 1893, the constitution of the Butte Miners' Union, the defendant here, providing for the payment of funeral expenses and sick benefits and the care of dependent ones of deceased members?

Mr. GEAGAN.—To which we object, if your Honor please, that the best evidence, it appearing that the witness now on the stand likely has one of these constitutions in his possession at his home, and that being the fact the instrument would be the best evidence itself.

(Testimony of Frank O'Connor.)

The COURT.—He may answer now, and produce it this afternoon, if he has one, and introduce it in evidence. Overruled. [392]

To which ruling of the Court the plaintiffs then and there duly asked for and were allowed an exception.

A. During the time that I have been secretary there was a standing offer that no member would have to be buried in a pauper's grave.

The WITNESS.—There was a provision in the constitution providing for a certain amount each week during sickness, and a certain amount for funeral expenses, and so on. That provision remained during the time that this Butte Miners' Union was a member of the Western Federation of Miners, after 1893, up to the 13th of June, and later there have been funeral benefits paid. I mean the 13th of June, 1914, the destruction of the hall. The Butte Miners' Union, a corporation, the defendant here, owned property in 1893, and that consisted of their hall; they loaned money to the Granite Miners' Union, also a corporation; and they loaned to the Black Hills,—I could not answer prior to the Federation, the organizing and joining the Federation. They did have property prior to 1893. They owned the hall and they owned money besides, and it was, I believe, in the Clark's bank at the time.

Cross-examination by Mr. GEAGAN.

The WITNESS.—I have looked over Plaintiffs' Exhibit "D," [393] and it is not similar to the original charter of the Butte Miners' Union, in the

(Testimony of Frank O'Connor.)

respect of the forfeiture of our property, and that respect is "all moneys, books and property of the Western Federation of Miners." That is the part that we objected to. As far as I know that is the part that I objected to myself. I am just pointing out the objection we made to the new charter and that is all. I could not say whether this charter upon its face, with the exception of the names, is similar to the original charter of the Butte Miners' Union in all appearances or not. I know these names, the honorary roll on this charter here; I know all of them, but I could not say whether their names were on the old original charter or not. I did not strike out the name of J. F. Poynter on that charter, and I don't know whether that was done or not. I know nothing about it being done. I would not say those names were on the old charter. I know Cunningham and Malloy, and they were members of the Union. The only difference that I can see is the objection I made to the other charter when it was tendered, and when I speak of the difference in the charters I am speaking from the objection I made to the new charter issued in 1914.

I was not present at the meeting the night after or the night that this discussion came up that Mr. Leahy made these remarks with regard to the charter; I was not there then; I don't know whether I was there or not. I have been pretty attentive to the meetings of the Butte [394] Miners' Union during the fall of 1914 and the spring of 1915. At any meeting which I was present during the fall of

(Testimony of Frank O'Connor.)

1914, and after this charter of 1914, arrived, and the winter or spring of 1915, there was no action taken at any meeting of the union rejecting this charter, that I know of. I might be on the night shift. A meeting I would be present at, if it had been, I would be likely to know it, but I would pay no attention to a little thing like that.

Q. Then, if you would not pay attention to a little thing like that occurring at the meeting, you would not pay very much attention to a little discussion that came up outside of the meeting either, would you?

A. What do you mean, the discussion of the charter?

Q. Yes. A. Yes, exactly, so I did.

Q. Then it would be so unimportant you would lead us to believe now that if it did come up in the meeting you would not pay any attention to a little thing like that, but it would be so important as a matter of discussion by Mr. Leahy any anyone else who happened to be present outside of the meeting, that you would attach a great deal of importance to it, and remember it. Is that the idea you wish to convey to us now?

A. I conveyed the idea that was in my mind at that time, and is in my mind right now, that we decided that the charter was no good and that we would not accept it. [395]

By "we" I mean the members of the Miners' Union right in the hall at the meeting held before the meeting. The members who were present were

(Testimony of Frank O'Connor.)

the members of the Union who made this decision. I could not very well remember now who they were. I know that Leahy and I talked over that. Leahy was one of them, and there were several members, and we decided right there that it would not be accepted. That was not in the meeting. I am not saying it was at the meeting. It was outside when it was rejected. There was no special meeting; it was just a members' meeting. Some of them happened to meet there in the hall. The only one I remember is Pat Leahy. There were other members there; there were perhaps five or six, but I don't remember who they were. I could not swear when that was, the day I am speaking of. I was not present at a meeting of the Butte Miners' Union subsequent to the time that the charter of 1914 came up at which any action was taken with regard to this charter.

Redirect Examination by Mr. BREEN.

The WITNESS.—The meeting place that I referred to at that time of the Butte Miners' Union was 217 North Main. There was a Secretary out there receiving dues during the day, and it was the customary hanging out place for members who happened to be down town, a place where they dropped in.

(Witness excused.) [396]

Testimony of Pat Leahy, for Defendant.

PAT LEAHY, a witness called on behalf of defendant, being duly sworn, testified as follows:

Direct Examination by Mr. BREEN.

The WITNESS.—My name is Pat Leahy, and I have been a resident of Butte nineteen years and a half. I have been a miner ever since I have been here except for the last six or seven months. I have been a member of the Butte Miners' Union and was a member of the Butte Miners' Union during the year 1914, and have been such member since October, 1896. I did not during the time I was a member of the Butte Miners' Union, observe or examine the charter of the Butte Miners' Union received from the Western Federation of Miners during the month of May, 1893, because I was not a member then, but did examine it since I have been a member. The charter that I now refer to did not contain a forfeiture clause of the property in case of a withdrawal, suspension, or dissolution. I guess that charter that was received in 1893, was blown to hell, or some other foreign country, wherever it went, I don't know, but the hall was blown up. I never saw it after the 13th of June. I was present when an application was made for a reissuance of that charter. I read the charter that came in response to that request and told the boys that it would not be advisable to accept because there was a clause in it that did not suit me, and that changed the intent and purposes of the former charter. [397] Defendant's Exhibit 3 is the one. There were other differences besides the for-

(Testimony of Pat Leahy.)

feiture clause referred to in this charter, Defendant's Exhibit 3, and the charter that had been hanging on the wall. There was only the names of Mr. Mills and Mr. Moyer on the new charter and there were the names of about twenty, I believe, charter members of the Butte Miners' Union, No. 1, on the previous one.

Q. When you say "charter members," do you mean charter members of the original organization?

A. Yes, sir.

Mr. GEAGAN.—Just a moment, we object to that—

Mr. BREEN.—It is not finished yet.

Q. Or members of the other Federation?

A. No, I mean the original.

Mr. GEAGAN.—Just a moment, we object to that as incompetent from this witness, no showing that the witness knew who the original members of the Butte Miners' Union were.

The COURT.—Overrule.

The WITNESS.—Defendant's Exhibit 3 arrived in Butte some time in October, 1914. There was a bunch present when it was opened and examined. I forget their names now; couldn't recall their names; quite a bunch in the room before we went to the meeting.

Q. What was done at the meeting, or was this charter taken up at the meeting? [398]

A. I made a little talk about this proposition of the charter and said how it read, "Well," they said, "It ain't worth making a motion about it."

(Testimony of Pat Leahy.)

That was in our meeting hall, North Main, during the meeting.

Q. What was the discussion with regard to the forfeiture of the Miners' Union property by the terms of the charter that meeting that you refer to?

A. Well, they were holding the property,—

Q. Well, I asked you if there was a discussion, if the contents of the charter was discussed?

A. No, they said it was not worth discussing. I don't know who said it was not worth discussing; some of the boys that were there; I don't recall now; couldn't recall his name, but some of the boys that were there at the meeting. At that time they threw it in the waste basket, because the charter read that the W. F. of M. was to take our property, money, and everything belonging to the local here, under the conditions of the charter I guess, providing that we did not suit them. The charter received did not comply with the request for a charter. They read the charter previous to the meeting in the assembly room, read it over, and I says, "Boys, here we go, if we will accept this charter." So when I brought it up at the meeting in talking about it, they said, "Don't waste your time," under the head of good and welfare of the meeting, and when I [399] brought up this matter they said, "Throw it in the waste basket." The sum and substance of the charter was to take away all our property and money, and everything belonging to us and ours.

Q. Well, did you or did the Butte Miners' Union,

(Testimony of Pat Leahy.)

a corporation, receive any correspondence, or were they in any manner recognized, or receive any quarterly reports from the Western Federation of Miners, after this month of October, 1914?

Mr. GEAGAN.—We object to that as incompetent, irrelevant and immaterial, and calling for a conclusion of the witness as to the quarterly report, and its reception or nonreception, would be immaterial to the issues in this case.

The COURT.—Overruled.

A. No, sir.

Q. Were they in any manner recognized by the Federation after the letter written by Mr. O'Neill, except by lawsuits since the date of that letter?

A. No, sir.

Mr. GEAGAN.—We object to that as irrelevant and immaterial, and calling for the conclusion of the witness.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception. [400]

Cross-examination by Mr. GEAGAN.

The WITNESS.—I have never before seen Plaintiff's Exhibit "D" in this case, which you have handed me for inspection. I have examined it. It is not similar to the original charter of the Butte Miners' Union received in 1893. There is a good deal of difference there that I would have to go through. It differs in this respect: "It is hereby agreed in acceptance of this charter that the aforesaid union shall

(Testimony of Pat Leahy.)

conform to the terms, rules and regulations, and in default thereof this charter may be revoked." That was not in the old one. With the exception of that it is the same as the old one, in the body of the charter, but in the old one the names of the members, the charter members; in our old charter, the names of the charter members were in it right underneath the charter members. I could not say that the names underneath were the same as the names underneath on this one; I couldn't give you the names that were there. That charter was signed by John Gilligan and W. J. Weeks, as president and secretary, but that is the Aspen charter of Colorado, and our charter belonged to Butte, Montana.

Q. The Aspen one was one of the original ones of the Federation, was it not?

A. I didn't look it over that close.

Q. Then you don't know whether that was or not, do you? [401]

A. Well, it was the Aspen Miners' Union, certainly it was a local.

It was some meeting in October, 1914, I couldn't exactly tell you, that this charter was thrown in the waste basket. It was not thrown in the waste basket till after when we offered it to Mr. Mahoney and he would not take it. That was not at a meeting. To the best of my recollection I believe it was Mr. Lee who threw it in the waste basket. I could not exactly say that I attended all the meetings during the fall and winter of 1914 and spring of 1915, of the Butte Miners' Union, but attended quite regularly, I was

(Testimony of Pat Leahy.)

a regular member and took an active interest. I was elected an officer during the year 1915.

Q. Now, at any of the meetings that you attended during 1914 and 1915, after the receiving of this charter, was there any action taken at the meeting rejecting this charter?

A. Well, they would not even take it into consideration after reading it.

Q. Will you please answer my question. (Question read.) A. Yes, there was, sir.

That was at a meeting some time in October, but I could not exactly tell the date of the meeting. At that meeting I talked the charter, and they said, "It ain't worth talking about. Throw it in the waste basket." I don't know who said that; some of the boys that were present [402] in the hall; members. That was at a meeting, but I don't know who were present at that meeting; I couldn't say who were present. I am not taking a memorandum of everybody that were present at the meeting. I don't think there was any motion made with regard to the rejecting of it. It was just simply the expression of somebody present to that effect, to throw it in the waste basket. They didn't think it was worth a motion. The remark that I have stated to you was merely the expression of everybody present at the meeting; everybody present said that, and they were members of the Butte Miners' Union. I could not tell you who they were, as I told you previous to this. They all expressed their opinion at once. All at once said, "Throw it in the waste basket." There was no action at any other

(Testimony of Pat Leahy.)

meeting at which I was present with regard to this charter in 1914 and 1915. In 1914 or 1915, but I couldn't recall the date of the meeting, a written communication was ordered forwarded to the Federation, with regard to this charter, at which meeting I was present. I could not recall the man who made that motion. It was a motion that they would not accept it. I don't know who made the motion. I don't know whether such a resolution was ever sent. I wasn't the secretary. I would not positively state whether that resolution was in the form of a written resolution or an oral resolution, and I don't know who made it. That was after the waste basket incident. The waste basket incident [403] that I now refer to was at the time it was handed to Mr. Mahoney. The tender to Mr. Mahoney was made in the office of the organization, Butte Miners' Union, in the office of the anteroom of the Butte Miners' Union. I couldn't state for sure who were present. I know Mr. Lee was the man who handed it to Mr. Mahoney, and he wouldn't take it. That was not at a regular meeting of the Union.

Redirect examination by Mr. BREEN.

Q. At the time that this reference was made that it was not worth considering, was there any statement made as to why it was not worth considering?

Mr. GEAGAN.—We object to that as repetition, having been gone into on direct examination, leading, and suggestive.

Which objection was by the Court overruled, to

(Testimony of Pat Leahy.)

which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. Because we had read in the charter that all moneys and properties belonging to the local was to become the property of the W. F. of M. and there was only two names signed to it, that is the secretary and president of the W. F. of M.

Q. Your attention was called to this Aspen charter, known as Plaintiffs' Exhibit "D," and Mr. Geagan asked you [404] if it was similar, and you read, "further agree that should the aforesaid union—further it is agreed that should the aforesaid union withdraw, or be dissolved, suspended or forfeit this charter, then the property, moneys, books and papers shall become the property of the Western Federation of miners." Was that in the original charter that was lost or destroyed June 13th, 1914? A. No, sir.

Mr. GEAGAN.—Just a moment. To which we object as improper cross-examination, irrelevant and immaterial, leading and suggestive.

Which objection was by the court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

Q. Then when Mr. Geagan asked you if, ending at the words "Western Federation of Miners," if it was similar in other respects, did you mean to give the Court the impression that the forfeiture clause that was not read at the time, was in the old charter?

A. No, sir.

(Witness excused.) [405]

Testimony of David J. O'Connor, for Defendant.

DAVID J. O'CONNOR, a witness called on behalf of defendant, being duly sworn, testified as follows :

Direct examination by Mr. BREEN.

The WITNESS.—My name is David J. O'Connor, and I hold the official position of deputy clerk and recorder of Silver Bow County, Montana. I have with me the original Articles of Incorporation of Butte Miners' Union, a corporation, which is the document I hand you. It is a permanent record of this county.

Mr. BREEN.—I now offer this in evidence.

Mr. GEAGAN.—To which the complainants object on the ground and for the reason that the corporate identity of the plaintiff is alleged in the bill of complaint, and is admitted in the answer, and that the same would merely be surplusage, tending to encumber the record, and it would be incompetent, irrelevant and immaterial, since it is admitted in the pleadings.

The COURT.—The objection is overruled. If they are not entitled to any weight the Court will give them none.

To which ruling of the Court the plaintiffs then and there duly asked for and were allowed an exception.

Which said document is as follows :

Articles of Incorporation of Butte Miners' Union.

KNOW all men by these presents;—that we the undersigned, residents of Silver Bow County, Montana Territory, [406] pursuant to a resolution of the Butte Working Men's Union (whose name has since been changed to that of the "Miners' Union,"

being an association of miners and others) adopted at a meeting held for that purpose in Butte City, of said County and Territory, prior to the signing and sealing of these presents, which resolution is as follows, to wit:—

“Resolved, that the trustees of the Butte Working Men’s Union, to wit:—Eugene Sullican, Charles S. Shoemaker, Michael Grace, James Cardigan, and Henry Rodda be, and are hereby authorized to incorporate this union, and for that purpose to file with the proper officer such certificate as is required by law; and that said trustees shall conduct the affairs of the corporation so formed until their successors are elected at the next annual election held for that purpose,” do this day hereby associate ourselves together for the purpose of incorporating said association under the laws of the territory of Montana: That said association shall be known by the corporate name of “The Miners’ Union,” and we hereby certify that the objects for which this corporation is founded are: To protect the interests of the membership of said association, and to enable it to hold such property as may be necessary for the promotion of its good and the advancement of the interest of the same, and to enable it to establish subordinate organizations, and to become a body politic and corporate in law and to this end. [407]

1st. The property of said association shall be held by the trustees thereof, and their successors in office, as such, with the exception of money, which shall be held by the Treasurer of said corporation.

2d. The trustees shall have power to sell, lease or mortgage any real estate or other property the corporation may have, or may hereafter acquire, for the purpose of enabling said corporation to erect and maintain a Hall for the meeting of said society, to wit:—The Miners' Union.

3d. The trustees shall have power in their discretion to issue stock which shall be unassessable, for the purpose of building and maintaining said Hall, but said stock so issued shall not exceed in amount the sum of Ten Thousand Dollars (\$10,000).

4th. Said incorporation may at any time, provide itself or the public with a public or private library, and may lease or rent any portion of any property owned and not otherwise used for said purpose.

5th. Said incorporation shall have power to sue and be sued, to plead and be impleaded in their corporate name.

6th. Said incorporation may have a seal which may be changed at pleasure.

7th. That said trustees shall hold their office until the first annual meeting *in* in March, A. D. 1882, or until their successors are elected, and that thereafter a board [408] of trustees consisting of not less than *five*, nor more than nine, who shall be members of said society, or incorporation, "The Miner's Union," shall be elected for the period of one year, or until their successors are elected, and that in case of any vacancy happening in said board of directors, said corporation shall have power to elect one or more of its members to fill such vacancy or vacancies, at any meeting after the happening of the same: That as

soon after the election of said trustee, or any of them, as may be, the President of said incorporation shall issue under his hand and the seal of said incorporation, a certificate of election to each of said trustees so elected, which shall be good and sufficient authority for authorizing said trustees to act for said incorporation.

8th. Said incorporation shall be subject to such rules and regulations as it may now have for its government, or may hereafter enact, provided they are not contrary to these Articles of Incorporation.

9th. Said incorporation shall have power to establish branch organizations, which shall be subject in their government to the rules and regulations of this society, to wit: "The Miners' Union"; but in all other particulars they shall be free and independent; That when any nine persons desire to establish a branch organization they may apply to the President of the Union, who may, in his discretion authorize the institution of such branch society, [409] and shall, when so established, grant to said branch society, a Charter, signed by himself and the Recording Secretary, and attested under the seal of said incorporation.

10th. That the private property of the members of this incorporation shall not be subject to the corporate debts of the same.

IN WITNESS WHEREOF, we have hereunto

set our hands and seals this 18th day of April, A. D. 1881.

CHARLES S. SHOEMAKER. [Seal]

EUGENE D. SULLIVAN. [Seal]

MICHAEL GRACE. [Seal]

JAMES CARDIGAN. [Seal]

HENRY RODDA. [Seal]

Territory of Montana,
County of Silver Bow,—ss.

On this 18th day of April, A. D. 1881, before me, the undersigned, a Notary Public in and for the Territory of Montana, personally appeared James Cardigan, Eugene D. Sullivan, Harry Rodda, Michael Grace and Charles S. Shoemaker to me personally known to be the persons described in, and who executed the foregoing instrument, and who severally acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein mentioned. [410]

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial Seal on the day and year in this certificate above written.

[Notarial Seal]

(Signed) CHARLES S. WARREN,
Notary Public, Montana Territory.

State of Montana,
County of Silver Bow,—ss.

I, Dave Kehoe, County Clerk and Recorder of said county, do hereby certify that the annexed instrument is a full, true and correct copy of the original instrument, as filed for record in my office on the 4th day of May, 1881.

(Testimony of David J. O'Connor.)

Attest my hand and seal of said Silver Bow County, Montana, affixed this 12th day of Feby., 1916.

DAVE KEHOE,

County Clerk and Recorder.

By D. J. O'Connor,

Deputy.

[Seal of Silver Bow County.]

Documentary Stamp, 10c.

[Endorsed]: Articles of Incorporation of The Miners' Union. Filed for Record May 4", 1881, at 40 min. past 9 A. M. A. C. Witter, Clerk and Recorder of Silver Bow Co., Montana Terr.

Mr. BREEN.—Perhaps we can shorten the record, if [411] counsel for the plaintiffs will agree, that we renewed the corporate existence in the proper time and within the proper manner.

Mr. GEAGAN.—Yes.

Mr. BREEN.—That may be admitted. And that later, because of an error in some place in South Dakota there was an amendment to the title, the word "The" being inserted in the name of the corporation, instead of "Butte Miners' Union."

Mr. GEAGAN.—We will admit it.

(Witness excused.) [412]

**Testimony of Charles Baxter, for Defendant
(Recalled).**

CHARLES BAXTER, a witness heretofore on the stand, being recalled by defendant, testified as follows:

Direct Examination by Mr. BREEN.

Q. Mr. Baxter, yesterday your attention was

(Testimony of Charles Baxter.)

called to your signature appearing on an article here, Plaintiffs' Exhibit "F," and you were asked if you signed that article, or that document. Now, why did you sign it?

Mr. GEAGAN.—We object to that, if your Honor please, as irrelevant and immaterial, and not proper examination as to the instrument. The instrument itself shows the reasons why it was signed, and those reasons it appears to state upon its face.

The COURT.—What are you offering it for?

Mr. BREEN.—I am offering it to show that upon an investigation by this witness after his signature being on there, that he found that the facts were not as represented in that document, and represented to him by Mr. Miller.

The COURT.—Well, I doubt if it is material, but if that is the purpose he may answer. The objection is overruled.

To which ruling of the Court the plaintiffs then and there duly asked for and were allowed an exception.

A. Mr. Miller came to me and explained the clause in the constitution of the Western Federation of Miners which had been adopted showing where the officials of the [413] Federation had power to take charge of the affairs of the union under certain conditions, which were that there should be charges preferred and proven against the officers, and that they should be deposed from office and a new election called. And he asked me what I thought of the matter, thought of the way the office was being con-

(Testimony of Charles Baxter.)

ducted, and he went on talking that way, and so I signed the petition, and he said then, after I signed it—

Mr. GEAGAN.—We object to what was said after signing it.

Which objection was by the Court sustained, to which ruling the defendant then and there asked for and was allowed an exception.

A. I have not explained why I signed it yet.

Q. Was there any other reason given by Mr. Miller than the one you have stated?

A. Yes. That we should have a fair election and elect a new set of officers afterwards, but before such an action could take place the regular election came on and there was a new set of officers elected, and then the Federation still brought suit to forfeit all the property, so that I didn't think then that he was sincere in his petition.

Mr. GEAGAN.—We object to the conclusions of the witness, if your Honor please, and ask that they be stricken.

The COURT.—Yes, the latter part of the answer may be [414] stricken.

(Witness excused.) [415]

Testimony of James J. Maher, for Defendant.

JAMES J. MAHER, a witness called on behalf of defendant, being duly sworn, testified as follows:

Direct Examination by Mr. BREEN.

The WITNESS.—On the first day of September, 1896, I became an officer in the Western Federation

(Testimony of James J. Maher.)

of Miners. Charters were issued during my term of office. There were a number of our charters, the Western Federation of Miners charters, returned for certain reasons. Some of the locals went out of existence, and some became dissatisfied. The Granite Mountain Union withdrew from the organization because it was dissatisfied. At the time the Granite Mountain Union withdrew from the Western Federation of Miners, the Western Federation of Miners did not attempt to claim to own or control or secure possession of its property; they did not do anything about it.

Q. At that time the Granite Mountain Miners' Union owned a large hall and considerable property, did it not? A. Yes, sir.

Mr. GEAGAN.—We object to that as irrelevant and immaterial

The COURT.—It might be a circumstance in actions of this character whether or not a forfeiture clause was in the original charter of the defendant. The objection is overruled.

To which ruling the plaintiffs then and there duly asked for and were allowed an exception. [416]

The WITNESS.—There was no claim made as to the ownership of any property owned by any local that withdrew from the Western Federation of Miners during my term of office. There was scarcely any property in any local that became defunct, outside of the Granite Mountain property. Other property was just the charter and rituals and books. Outside of that no property was returned. I was an officer from September 1st, 1896, to June 1st, 1901.

(Testimony of James J. Maher.)

Cross-examination by Mr. GEAGAN.

The WITNESS.—Those books was all the property the other unions had, outside of the Granite Mountain. The Federation never brought any action against the Granite Mountain. I do not say that the charter of the Granite Mountain Union did not provide for the forfeiture of its property or the turning over of the property. They returned the charter and everything belonging to the Federation. I don't know whether it contained that same clause or not. They returned the charter as it was and I did not look it over. It was the same charter as the other; the same as the Aspen charter.

(Witness excused.) [417]

Testimony of Pat Lee, for Defendant.

PAT LEE, called as a witness on behalf of defendant, being duly sworn, testified as follows:

Direct Examination by Mr. BREEN.

The WITNESS.—My name is Pat Lee and I am a miner, having resided in Butte going on seventeen years. During that time I have been a miner. I have been a member of The Butte Miners' Union since May, 1898.

Plaintiffs' Exhibit "C" contains my handwriting and it is a letter from me to Mr. Mills, bearing date of November 24, 1914. After the mailing of that letter The Butte Miners' Union, a corporation, was never able to receive any communication or any recognition or any reports that the constitution provided should be sent to the various locals from the Western

(Testimony of Pat Lee.)

Federation. I did not write for them.

Q. Was there anything of an official character passed between The Butte Miners' Union and the Federation. I mean of a fraternal, not a legal character?

A. A petition for the recall of the officers. That petition for recall was that The Butte Miners' Union drew up a petition to recall Charles H. Moyer, president of the Western Federation of Miners, and John P. Lowney, a member of the executive board, and against Miller of the executive board. The Western Federation of Miners, when these petitions were sent out, wrote letters to all locals [418] and said it was not an official act of the Butte Miners' Union at all. This petition for recall was prepared over the signatures, proper signatures and seal of the organization. This letter which I show you is a copy of the letter which Mr. Moyer sent out. When this petition for the recall of officers was sent out, The Butte Miners' Union, a corporation, the defendant here, was never notified by the general office of the Western Federation of Miners of what returns were made or what was done. The Butte Miners' Union received no official notification whatever of the result of this recall from the Federation.

Mr. BREEN.—We now offer the document known as Defendant's 4 for identification, the one identified by Mr. Lee, the witness on the stand, as a circular letter from Mr. Moyer.

Mr. GEAGAN.—To which we object on the ground and for the reason that the same is incompetent, ir-

(Testimony of Pat Lee.)

relevant and immaterial to the issues involved at bar, the document affirmatively appearing on its face to relate to a public communication in the papers and press; that it does not relate to any action or communication which was placed in the hands of the Western Federation of Miners, and that the same is not relevant or material or competent to bind the parties to this action in relation to the contract now before the court for interpretation upon the evidence.

The COURT.—If the document is entitled to no weight, [419] the Court will give it none. Overruled.

To which ruling of the Court the plaintiffs then and there duly asked for and were allowed an exception.

Which said document is as follows:

**Defendants' Exhibit No. 4, for Identification—
Letter, December 16, 1914, President Western
Federation of Miners to Officers and Members
of Local Unions.**

Independence. Education. Organization. Western Federation of Miners. Officers. Chas. H. Moyer, President, 503 Denham Building, Denver, Colo. C. E. Mahoney, Vice-President, 503 Denham Building, Denver, Colo. Ernest Mills, Secy-Treas. 503 Denham Building, Denver, Colo. John M. O'Neill, Editor, 503 Denham Building, Denver, Colo. Executive Board. J. C. Lowney, 450 N. Idaho St. Butte, Montana. Yanco Terzich, Angels Camp, California. Wm. Davidson, New Denver, British Columbia. Guy E. Miller, P. O. Box 300, Joplin, Mis-

souri. Western Federation of Miners Organized May 15, 1893. Affiliated with A. F. of L. 503-511 Denham Building, Denver, Colo. SBT & OAU \$14491.

December 16, 1914.

To the Officers and Members of Local Unions
Western Federation of Miners,

Dear Sirs and Brothers:—

Having noticed in the daily press of Butte City a long and vicious article which purports to be a petition sent from Butte Union No. 1 to other locals of our Federation, this is to officially notify all locals of the Western Federation of Miners that said petition, or whatever it may [420] be called, is not an official act of the Butte Miners' Union No. 1, of the Western Federation of Miners, but emanates from a few men who after having agreed with me in the month of June that it would be for the best interest of No. 1 that they should tender their resignations as officers-elect of the local and having done so in writing, yet in forty-eight hours after I left Butte repudiated said resignations and were installed in office, and, as good and sufficient proof will be furnished, have since that time absolutely refused to co-operate with the representatives of your Federation or to comply with its laws, but have in fact labored apparently with all their might to complete the job undertaken by the mobs of June 13th and 23d, which was to absolutely destroy every vestige of unionism in Butte City, the only difference in the methods being that they have followed the program of looting the treasury while the other

(Testimony of Pat Lee.)

applied direct action and sabotage. When stopped by the constitutional amendment to our law which was taken advantage of by many more than the ten per cent of the membership required petitioning the President of your organization to take charge of the affairs of the local, they absolutely refused to conform to the constitution and have taken this step seeking to divert attention from their infamy by charging Federation officials with attempting to disrupt No. One. This action was taken after your Executive Board Member Guy E. Miller, acting for the Federation [421] in my behalf, had read the petition and notified the union that under the Federation law its affairs were under the control of the Western Federation, they, therefore, being without authority to act officially for the local.

This will be a sufficient guide for our local unions until the next issue of the Miners' Magazine, when every detail of the situation will be placed before the membership by Board member Miller, who is on the ground, as well as Vice-President Mahoney and Board member Lowney. I shall, also, for the benefit of the membership and the public fully review the Butte situation in that issue of our official organ.

Fraternally yours,

[Seal]

CHARLES MOYER,

President Western Federation of Miners.

Waste Basket.

The WITNESS.—I think it was about a week after this action, the filing of the petition, that action was commenced by the Federation to secure control

(Testimony of Pat Lee.)

of the Butte Miners' Union property and affairs. The Butte Miners' Union, a corporation, was conducted as a corporation all of the time immediately after this action and prior thereto. She is a corporation all of the time, The Butte Miners' Union.

[422]

Q. But I mean under the seal of the corporate organization instead of using the other?

A. Yes; we had two seals. They used the corporate seal for legal purposes and Western Federation seal anything we sent out to the Western Federation locals.

Q. I believe you stated about a week after the receipt of Moyer's letter—

A. After the petition was circulated.

Q. About a week after the petition was circulated calling for their recall. Examine this. I offer you this for the purpose of refreshing your memory. Is that the first complaint that was served upon the organization?

A. This is the first one. The filing date of this is December 17, 1914. I know about the arrival of the charter that was sent during the month of October, 1914, and which is marked Defendant's Exhibit 3. The charter has never been accepted by the union.

Q. Was it ever, in your presence, tendered to Mr. Mahoney?

Mr. GEAGAN.—We object to this as irrelevant and immaterial, tendering to Mr. Mahoney not being tendered to the Western Federation.

Which objection was by the Court overruled, to

(Testimony of Pat Lee.)

which ruling the plaintiffs then and there duly asked for [423] and were allowed an exception.

A. Yes, sir.

The WITNESS.—The Western Federation of Miners never made any demand upon the defendant corporation here for per capita tax after the receipt of the letter, Plaintiffs' Exhibit "C," or the letter written to me referring to the charter; they never made any demands at all, and furnished no information and no reports of any kind. I would also like to state that we used to get monthly blanks for the monthly reports, and when I wrote that letter the monthly blanks didn't come for the month of November. We used to get a monthly blank for the written report and when I wrote that the blank didn't come for the month of November, and never after; for the month of November, nor after that.

Cross-examination by Mr. HILTON.

The WITNESS.—I could not exactly say the date when all communications ceased between me and the Western Federation of Miners officials. I have no recollection of receiving anything from the Western Federation of Miners from that date, dated the 16th of December, 1914. I have not got the exact date of the receipt of the last charter. It was in the latter part of October, 1914. As soon as I received that charter, I was aware that it did not conform to the old charter. The last charter was the charter which [424] was tendered by me to Mr. Mahoney. That was not in the month of October, but it might be in December or January. After

(Testimony of Pat Lee.)

the receipt of the charter I immediately was aware that it contained a provision that the original charter did not contain. We still continued to act with the Federation officials after I discovered that fact, because they sent in their blanks and I sent in the report for the month of October. After I determined that there was this error or misapprehension, whatever I might call it, in the issuance of the charter, we were working under the old charter. We wanted a copy of the old charter back again. When we did not receive that we still continued our official relations with the Federation after we discovered that the last charter was all we had, for about a month, or maybe less. During the month of October, and the latter part of that month, we sent into the Western Federation of Miners our usual monthly report, and that purported to give the monthly report of the amount received by us and the disbursements for that month.

Q. And previous to that time, to the 31st day of October, 1914, and during the same month, you had various communications with headquarters at Denver, wrote them and received letters from Mr. Mills, after the receipt of the charter?

A. Mr. Mills wrote one letter to me and after that I received the charter, is all I remember of. [425] I remember of writing him the letter which you have handed me. I did have communication with him and wrote him this letter and inquired concerning one T. Jefferson Davis.

Document received in evidence, marked Plaintiffs' Exhibit "G," and is as follows:

(Testimony of Pat Lee.)

**Plaintiffs' Exhibit "G"—Letter, October 12, 1914,
Secretary-Treasurer to Mills.**

Butte Miners' Union. No. 1, W. F. of M.

In Union There is Strength.

Butte, Montana, Oct. 12th, 1914.

Ernest Mills,

503-511 Denham Bldg.

Denver, Colo.

Dear Sir and Brother:

In reply to yours concerning T. Jefferson Davis, I will ask you not to allow him to join the U. M. W. of A. as this our best show of winning out here. We have them declared unfair & disruptors. If you get any more communications like the one you sent me just answer it and say they are declared unfair.

Fraternally yours,

PAT LEE,

Sec. Tres.

(Butte Miners' Union No. 1.

W. F. of M. Seal.)

The WITNESS.—That bears the seal of the local union. This communication was sent by me to Mr. Mills after I discovered the forfeiture clause in the last charter. At that [426] time nor at any other time I made no objections to the officials concerning the terms of that charter. At a later date I wrote to Mr. Ernest Mills the letter you have now handed me.

Document received in evidence and marked Plaintiffs' Exhibit "H," and is as follows:

(Testimony of Pat Lee.)

**Plaintiffs' Exhibit "H"—Letter, October 14, 1914,
Secretary-Treasurer to Mills.**

Butte Miners' Union No. 1, W. F. of M.

In Union There is Strength.

Butte, Montana, Oct. 14th, 1914.

Ernest Mills,

Denver, Colo.

Dear Sir & Bro.

In the registered letter I sent you I forgot to send the stamps for Bro. Mahoney Card hoping you will excuse me.

Fraternally yours,

PAT LEE,

Sec. Tres.

The WITNESS.—On the same day, October 14, 1914, I forwarded to Mr. Ernest Mills, as secretary of the Western Federation, this document with the seal of the local attached thereto.

Mr. HILTON.—I offer it in evidence. I am offering this, if your Honor please, for the purpose of showing the relations, is all.

Document received in evidence and marked Plaintiffs' Exhibit "I," and is as follows: [427]

(Testimony of Pat Lee.)

**Plaintiffs' Exhibit "I"—Letter, October 14, 1914,
Secretary-Treasurer to Mills.**

Butte Miners' Union No. 1, W. F. of M.

In Union There is Strength.

Butte, Montana, Oct. 14th, 1914.

Ernest Mills,

503-511 Denham Bldg.

Denver, Colo.

Dear Sir & Bro.

I am enclosing you a check for \$100 for the defense fund in aid of our Brothers who are in jail in Michigan hoping you will be successfull in getting them released from prison.

I am also enclosing you two stamps for Bro Mahoney. His account is on Ledger 5, Page 79 hoping you will put the same on his card.

With best wishes,

I remain, Yours truly,

PAT LEE,

[Seal]

Sec. Tres.

(Butte Miners' Union No. 1, W. F. of M.)

The WITNESS.—I wrote that letter after I received the charter, but that money was allowed before the charter was received. During the entire year, 1914, and up to and including 1915, I made no further report after the month of October that I recall.

Q. You made no report on blanks as to any votes taken by you? A. The referendum. [428]

Q. Yes, the referendum. And the membership still continued, did it not? The membership of the

(Testimony of Pat Lee.)

Western Federation of Miners, sending in members, still continued to be members of the local union, did they not? A. Yes, sir.

Q. Did you deal with them in your capacity as an official of the local? Did you deal with them as you always had previous to the acceptance of the charter?

A. We didn't accept the charter. After the charter came we still dealt with the members as before. I signed and stamped Brother Lowney's card, and with the usual stamp and my name, during 1914 and 1915. This is my signature during the year 1915, cancellation of stamp; that is my rubber stamp. This charter of 1914, bearing date of October of that year, was never accepted. By that I mean there never was any motion made at any meeting of the union to accept the charter. There was no motion made at any meeting of the union to reject it that I recall. It was never returned to the Federation; it was never returned to headquarters.

Q. Did you ever write a letter to the Federation saying that you, as an individual even, or that the local organization as an organization, had rejected it by any action?

A. I don't say they did reject it, no.

Q. Did you still keep it? [429]

A. Well, it was laying there in the office all the time. It has been in the possession of the local from that time till this, uninterruptedly, until it was produced in evidence.

(Testimony of Pat Lee.)

Redirect Examination by Mr. BREEN.

The WITNESS.—I recall the letter I wrote to Mr. Mills on November 24th, 1914. In that letter I notified him that the charter was not satisfactory. I stated to Judge Hilton that we continued to work under that charter. We had been working under that charter from the date of its destruction right along. There was a reason why the Butte Miners' Union did not withdraw formally from the Western Federation of Miners prior to the date of withdrawing. I think it was some time in January that we wanted to withdraw, but our local officers advised not withdrawing while the suit was pending.

Q. At that time there was a suit pending against the officers of this defendant organization, asking for the control and management.

Mr. HILTON.—Now, we object to the question, if your Honor please, it is leading and improper.

The COURT.—Sustained.

Q. I want to call your attention to No. A-6590, a case in the District Court of the Second Judicial District of the [430] State of Montana, in and for the County of Silver Bow, the Western Federation of Miners, a voluntary organization and association of persons, with its headquarters in the City and County of Denver, State of Colorado, plaintiffs; versus Martin Scahill et al., defendants, filed in the District Court on December 17th, 1914. Is that the suit you refer to?

A. Well, one similar to that. That was thrown out on a technicality.

(Testimony of Pat Lee.)

This is the original complaint filed. In the suit entitled in the same court and cause, amended complaint, filed February 8th, I think there might be one prior to that, but that is the same suit.

We had taken legal advice as to withdrawing, early in January, and were advised not to until the suit was determined.

(Witness excused.)

Mr. BREEN.—We now, if your Honor please, offer in evidence the seventh affirmative defense to the Bill of Complaint and Complaint of plaintiffs, which is as follows: “That there is no provision in said constitution and by-laws of the above-named Western Federation of Miners, exhibit ‘D,’ of this answer, and no provision exists, or ever existed, authorizing the issuance or empowering any officer or member [431] of the above-named Western Federation of Miners, or the above-named Western Federation of Miners, to issue any charter, or other instrument, containing the following clause, or any part thereof, either in words or in substance, to wit: ‘It is agreed that should the aforesaid union withdraw or be dissolved, suspended, or forfeit this charter, then all property, moneys, books and papers, shall become the property of the Western Federation of Miners,’ and said clause was inserted in the said pretended reissuance of said original charter without any authority whatever and contrary to said constitution and by-laws, and is in excess of the power granted by said constitution and by-laws, and

(Testimony of Pat Lee.)

wholly null and void, and is contrary to public policy."

We offer the eighth affirmative defense, which is as follows:

"For an eighth affirmative defense to the bill of complaint and complaint of plaintiff, this answering defendant alleges; That the said pretended reissuance of said charter, set forth in paragraph five of said bill of complaint, and the contract therein attempted to be expressed, namely: 'It is agreed that should the aforesaid union withdraw, or be dissolved, suspended, or forfeit this charter, then all property, moneys, books and papers, shall become the property of the Western Federation of Miners' are each and all illegal and against public policy, and each and all and every portion thereof contravene the express provisions of section [432] 4226, Revised Codes of Montana, of 1907, as amended by Chapter 101 of the Session Laws of 1909, of the Eleventh Legislative Assembly of the State of Montana."

We offer the ninth affirmative defense to the bill of complaint and complaint of plaintiff as follows: "For a ninth affirmative defense to the bill of complaint and complaint of plaintiff, this answering defendant alleges: That the said pretended reissuance of said charter, set forth in paragraph five of said bill of complaint, and the contract therein attempted to be expressed, namely: 'It is agreed that should the aforesaid union withdraw, or be dissolved, suspended, or forfeit this charter, then all property, moneys,

(Testimony of Pat Lee.)

books and papers, shall become the property of the Western Federation of Miners,' are each and all illegal and against public policy, and each and all and every portion thereof contravene the express provisions of Sections 3889 and 3890, of the Revised Codes of the State of Montana of 1907."

The COURT.—The pleadings are all considered before the Court.

Mr. BREEN.—We have no further testimony.
[433]

Testimony of Charles E. Mahoney, for Plaintiffs (in Rebuttal).

CHARLES E. MAHONEY, a witness heretofore on the stand, being recalled by plaintiff in rebuttal, testified as follows:

Direct Examination by Mr. GEAGAN.

The WITNESS.—I am the same witness who was on the stand yesterday in this case. I was in the courtroom during the giving of testimony by members Lee, Leahy, O'Connor and Oliver, and heard the testimony of those gentlemen with regard to the handing of a charter to me. That is the charter in question here of October date. At that time I informed them that all matters should be sent to the International Office of the Western Federation of Miners. This occurred on North Main street, in Butte, in the office of the Miners' Union at that time. It was never sent to the officers of the Western Federation of Miners. I have been a member of The Butte Miners' Union for several years.

(Testimony of Charles E. Mahoney.)

Q. Did you ever see the original charter of the Butte Miners' Union in the Western Federation of Miners issued in 1893? A. Yes, sir.

Mr. BREEN.—Just a moment. This is reopening the case, and it is not rebuttal. We object to it for that reason.

Which objection was by the Court overruled, to [434] which ruling the defendant then and there duly asked for and was allowed an exception.

Q. Do you know whether or not that charter contained the clause that is in the charter of October, 1914, with relation to the money, books and property of the Butte Union? Calling your attention to Defendant's Exhibit 3, which is the October charter, and the clause therein relating to what should become of the property in the event of withdrawal, suspension, and so forth.

A. The contracts in both charters were identical. The contracts in the two charters are identical, the one previously destroyed in the wrecking of the hall, and this charter here; that is the wording of them.

Cross-examination by Mr. BREEN.

The WITNESS.—I think it was in the early part of 1912, that I became a member of the Butte Miners' Union.

(Witness excused.) [435]

Testimony of Patrick Meaney, for Plaintiffs (in Rebuttal).

PATRICK MEANEY, a witness called on behalf of plaintiffs in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. GEAGAN.

The WITNESS.—My name is Patrick Meaney, and I reside in Butte, having resided here thirty-seven years. I became an active member of the Butte Miners' Union, in April, 1895, and contributed towards the first money that was raised to build the present Miners' Union Hall, in 1881. I was employed at the Star West. I was acquainted with the original charter that was issued to the Butte Miners' Union by the Western Federation of Miners, in 1893, and saw it there hanging up on the wall, all the time after, and numerous times after that. I read it. There was a clause in the original charter as originally issued to the Butte Miners' Union providing that in the event of withdrawal or suspension or for the other causes named therein there was to be a change of the ownership of property, or that the property was to become the property of the Western Federation of Miners. In the old charter of the Butte Miners' Union there was a provision that if the charter should be revoked or the union should withdraw or be suspended from the Western Federation of Miners, that the property would revert to the Western Federation of Miners, and that was the general understanding when the Western Federation of Miners was formed. That provision was in the

(Testimony of Patrick Meaney.)

original [436] charter that I saw in the Butte Miners' Union Hall, the one that was issued in 1893.

The main purpose of the formation of the Western Federation of Miners was to relieve the Butte Miners' of putting up money that was draining from them in supporting the Coeur d'Alene strike of 1892, and to get all the unions formed into an organization of miners that would aid the cause. That was one of the things, and in that way it would relieve Butte of the drain. The organization was formed in the Miners' Union Hall, in Butte, in the month of May, 1893. The Butte Miners' Union issued the call for it, and Mr. Breen made the motion appointing a committee of five of the Butte Miners' Union, which constituted Tom Nolan, Charles O'Brien, William McLean and John Gilligan. They communicated with the various miners' unions throughout the west, for the purpose of meeting in Butte sometime in the middle of May, I have forgotten the exact date, for the purpose of forming a western miners' organization or a miners' organization of the West. They had not determined the name of it, until the convention had met. John Gilligan was the first president of the Western Federation of Miners, and William Weeks was the first Secretary.

Cross-examination by Mr. BREEN.

The WITNESS.—I first became a member of the Butte [437] Miners' Union, an active member, in January, 1895, and by "active member" I mean a dues paying member. Prior to that time I had not

(Testimony of Patrick Meaney.)

been recognized as a member of the Butte Miners' Union, but I was president of the Workingmen's Union. I did not attend the meetings of the Butte Miners' Union, and was not a member, and did not pretend to join an organization that I did not consider I was following the vocation of its members, and I should not be admitted as a *bona fide* member like others did. The time I became a member was approximately two years after the organization of the Western Federation of Miners.

I know that you made the motion appointing the committee, because we had the people's headquarters, and it was your object to become the first president of the Western Federation of Miners, but we saw to it, as members of the peoples' party that we had enough men there in the Miners' Union Hall to not allow you even to attend the first convention, and that you were not even elected as a delegate. You tried to be president of everything that came up from a labor standpoint in the state at that time. At that time there was a state association, but it was not an active association or organization. No organization of that kind had any definite purpose. The formation of the Western Federation of Miners was for the purpose of relieving the expenses of the Butte Miners' Union. At that time the Butte Miners' Union [438] had property as also did the Granite Mountain.

After I joined the Butte Miners' Union in 1895 I went to Helena, but not necessarily to run for State Senator. Since that time I have never been a mem-

(Testimony of Patrick Meaney.)

ber of the Butte Miners' Union. I did not go to work at that time in the Original Mine for the period of one day, for the purpose of joining the Butte Miners' Union. At the present time I live in Butte on Ohio Street, and my business is mining, out in Jefferson County. I have some claims out there. I have lived in Butte all winter. Mining is my business.

I went in the Butte Miners' Union Hall and saw the charter the day it was hung up, or the day after; I don't recall the date; it was after it was hung up. I was president of the Workingmen's Union and I was secretary of the Labor Temple, and that occupied three nights out of each week during several years, and I had access to all of the charters, and I read all of them, and made it my business to read them. When this charter was hung up it was framed, and had a glass front. I don't recall any drapery being on it. This charter which was hanging up contained five names, Joe Poynton, Bill Cunningham, but the others I cannot recall. There was John Gilligan, President, and W. J. Weeks, Secretary. Poynton's name was afterwards stricken from the charter. I do not recall John Eddy's name being on that charter, neither do I recall Pat Colm's nor Frank Shovlin. I read that charter [439] after it was hung in the hall. My business took me in there most every day. It is not a fact that I am appearing as a witness in this case because of my feeling against Mr. Breen.

(Witness excused.) [440]

**Testimony of Ernest Mills, for Plaintiffs (in
Rebuttal).**

ERNEST MILLS, a witness called on behalf of plaintiffs in rebuttal, being duly sworn, testified as follows:

Direct Examination, by Mr. GEAGAN.

Q. Is this the book that you produced on the request of Mr. Breen yesterday, with regard to the records of the Federation, the old records?

A. Yes, sir.

Mr. GEAGAN.—We now offer in evidence this book.

Mr. BREEN.—We submit that that would not be any proof. We object to the offer in evidence because that would not be any proof whatever. There is no evidence by whom these entries were made, or anything of the kind. It is objected to as incompetent, irrelevant and immaterial, and not the best evidence. We object to it further because it has not been properly identified.

The COURT.—The objection is overruled. It will be allowed in evidence.

To which ruling of the Court the defendant then and there duly asked for and was allowed an exception.

Which said document is marked Plaintiffs' Exhibit "J" and is as follows: [441]

**Plaintiffs' Exhibit "J"—Minutes of Miners' Unions
of the Northwest, etc.**

Miners' Union Hall,

Butte, Montana, May 15th, 1893.

Pursuant to a call by the committee of arrangements calling a convention of all the miners' unions of the Northwest for the purpose of organizing or forming a Federation Chairman J. L. Williams called the convention to order.

On Motion John McLeod of South Dakota was elected temporary chairman and T. Malouin of Montana, Temporary secretary.

On Motion a Committee of five including the Secretary be appointed on Credentials.

Chair appoints Charles Obrien, Peter McGowan, Stephen Nicholas and Peter Timmons with the Secretary.

On Motion Recess of 20 minutes was taken to give committee time to report.

Report of Committee That the following named Brothers are entitled to seats in the convention:

John McLeod.	D. G. O'Donnell.
Pat McKelvey.	James Leonard.
J. C. Darby.	Patrick Burk.
D. D. Goode.	Jos. Poynton.
Geo. Giles.	Wm. Cunningham.
Wm. Durand.	Pat Galagher.
W. J. Wilson.	Jas. H. Rowe.
Wm. Bell.	Thos. Knotwell.
J. P. Fister.	Andrew Osborn.
J. T. Beale.	Richard Waters.

Stephen Williams.	Stephen Nicholas.
Chas. Actis.	Patrick Clifford.
R. M. Nettle.	Geo. R. Smith.
Archie Gibson.	John L. Williams.
T. J. McLennon.	Thomas McLaughlin.
James Millett.	T. Malouin.
John Duggan.	Chas. Obrien.
John Duggan, Proxy.	Bart Maloy.
Thos. Obrien.	John Gilligan.
Peter McGowan.	W. J. Weeks.
Chas. J. Butler.	Anthony Mathews.
Peter Timmons.	

On Motion Report accepted and placed on file and
Delegates Seated.

On Motion Chair appoints a committee of five on
Rules of Order and permanent organization. [442]

Committee: James Leonard of Colorado.

R. M. Nettle of S. Dakota.

Wm. Cunningham of Butte, Mont.

D. D. Goode of Granite, Mont.

Jos. Payton of Idaho, Mont.

On motion one more member was allowed on the
committee.

Chair appoints John Duggan of Utah.

On motion Committee consisting of one member
from each state represented be appointed.

Committee: G. R. Smith, Idaho.

Stephen Williams, Mont.

Patrick Clifford, Colorado.

Dan. O'Donnell, S. Dakota.

John Duggan, Utah.

On Motion two more be added to the committee.

Chair appoints.

Geo. Giles of Montana.

Thos. O'Brien, Idaho.

On motion Convention adjourns till 2 o'clock P.
M.

T. MALOUIN,
Sec'y.

Transcribed by

W. J. WEEKS,

Sec-Treas.

W. F. M.

Hall of Butte Miners' Union

May 15th

After Noon Session.

Meeting called to order by Chairman, John Mc-
Leod.

Minutes of Morning Session read and approved.

Report of Committee on Rules of order and per-
manent organization read and adopted.

Report of Com. Chairman Convention.

We your committee appointed to draw up rules con-
vention and [443] order of Business recommend
that First in order shall be considered the advisa-
bility of forming a federation second title of organi-
zation, 3d, its component parts, 4th, their right and
duties and adoption of constitution for government
of the organization.

Rules Order The rules of order to govern proceed-
ings of convention to be those of the late ~~state~~ Mon-
tana State Association of Miners, we further recom-

mend that the temporary officers be made permanent for convention.

Jas. Leonard.

Wm. Cunningham,

R. M. Nettle,

J. F. Poynton,

John Duggan,

D. D. Goode.

On Motion it was unanimously decided to form a Federation.

On Motion No member is allowed to speak more than once on any question and for not more than five minutes at a time.

On Motion a committee consisting of one member
Union

from each ~~State~~ represented be appointed to select a name for the Federation.

On Motion a recess of 10 minutes taken to give Committee time to report.

AFTER RECESS.

Report Com. Committee Report having selected the name of Western Federation of Miners.

Report Adopted.

On Motion The Western Federation of Miners is composed of Unions represented in this Convention.

On Motion a committee of one member from each Union represented in this body be appointed to Draft a constitution and by-Laws.

Committee: Patrick Clifford, Aspen, Colo.

Jas. H. Rowe, Butte, Mont.

W. J. Wilson, Burke, Idaho.

J. P. Fister, Belt Mount., Mont.

Archie Gibson, Bannock, Mont.

Chas. J. Butler, Barker, Mont.

R. M. Nettle, Central City, S. Dak.

Jas. Leonard, Creede, Col.

John Duggan, Eureka, Utah.

James Millett, Granite, Mont.

Dan Odonnell, Lead City, S. Dak.

Jos. Poynton, Mullan, Idaho.

Wm. Bell, Ouray, Colo.

Peter Timmons, Rico, Colo.

Patrick Burke, Gem, Idaho. [444]

On Motion Adjourned till 2 o'Clock Tuesday, May 16th, and that the committee Report at that time.

T. MALOUIN,

Sec'y.

Transcribed by

W. J. WEEKS,

Sec'y-Treas.

W. F. M.

Hall of Western Federation of Miners.

May 16, 1893.

Convention called to order at 2 o'clock, P. M.

Chairman John McLeod in the chair.

President J. L. Williams of the Butte Union gave Notice that he had appointed W. A. Shifflebin as Delegate in place of Chas. Actis, who had failed to act.

On Motion Bro. Shifflebin was seated.

Minutes of Previous Meeting read and approved.

On Motion a Committee consisting of one delegate from each State was appointed on Press and Printing.

P. S. Cannot find the names of that committee.

W. J. WEEKS,

Sec'y.

W. F. M.

On Motion Committee on Constitution Makes their report.

On Motion Constitution be acted on section by Section.

On Motion Preamble adopted as read.

PREAMBLE.

Since there is scarcely any fact better known than that civilization has for centuries progressed in proportion to the production and utilization of the metals, precious and base, and most of the comforts enjoyed by the great majority of mankind are due to this progress, the men engaged in the hazardous and unhealthy occupation of mining should receive a fair compensation, for their labor, and such protection from the law as will remove needless risk to life and health; we therefore, deem [445] it necessary to organize the Western Federation of Miners of America for the purpose of securing by education and organization and wise legislation a just compensation for our labor and the right to use our earnings free from dictation by any persons whatsoever. We therefore declare our objects to be:

First. To secure an earning fully compatible with the dangers of our employment.

Second. To establish as speedily as possible and forever our right to receive pay for labor performed in lawful money, and to rid ourselves of the iniquitous system of spending our earnings where and how our employers or their officers may designate.

Third. To procure the introduction and use of any and all suitable, efficient appliances for the preservation of life, health and limbs of all employees, and thereby preserve to society the lives of large numbers of wealth producers annually.

Fourth. To labor for the enactment of suitable mining laws, with a sufficient number of inspectors, who shall be practical miners for the proper enforcement of such laws.

Fifth. To provide for the education of our children by lawfully prohibiting their employment until they shall have obtained a satisfactory education, and in every case until they shall have reached sixteen years of age.

Sixth. To prevent by law any mine owner or mining company from employing any Pinkerton detectives or other armed forces from taking possession of any mine, except the lawfully elected or appointed forces of the state, who shall be *bona fide* citizens of the county and state.

Seventh. To use all honorable means to maintain friendly relations between ourselves and our employers, and endeavor by arbitration and conciliation to settle such differences as may arise between us, and thus make strikes unnecessary.

Eighth. To use all lawful and honorable means to abolish the system of contract convict labor in states where it now exists and to [446] demand the enforcement of the foreign contract labor law and protection of our American miners and mechanics against imported pauper labor.

Ninth. To demand the repeal of all conspiracy laws that in any way abridge the rights of labor organizations.

Tenth. To procure employment for our members in preference to non-union men.

On Motion Any Delegate who is called to order by the chair and refuses to obey will be ejected from the hall.

The Following constitution was then adopted Section by Section.

CONSTITUTION.

Article I.

Section 1. This body shall be known as the Western Federation of Miners, and shall be composed of Miners' Unions of the West, duly paying a per capita tax to this Federation.

Section 2. The object of this Federation is to unite the various Miners' Unions of the West into one central body; to practice those virtues that adorn society and remind man of his duty to his fellow-man; the elevation of his position and the maintenance of the rights of the miner.

Article II.

Representation.

Section 1. This Federation shall hold its annual convention on the second Monday in May at such

place as the convention shall designate before adjournment of any session thereof.

Section 2. Each local union shall be entitled to one delegate for one hundred members or less, and one for each additional one hundred or majority fraction thereof, but no delegate shall have more than five votes.

Section 3. No local union shall be entitled to representation [447] in the annual convention which has not complied with the constitution of this Federation.

Section 4. Delegates to the annual convention shall be elected by their respective local unions at least thirty days prior to the meeting thereof, and shall present their credentials before being admitted to a seat therein.

Section 5. A majority of the unions comprising this Federation shall constitute a quorum.

Article III.

Section 1. The officers of this Federation shall consist of a president, two vice-presidents, a Secretary-treasurer, warden and an executive committee of five of which the president shall be chairman, all of whom shall be elected by a plurality of the votes cast at each annual convention.

Election of Officers.

Section 2. Nominations of officers of this Federation shall be from the floor, but election shall be by ballot. Should no candidate receive a plurality of the votes cast, the candidate receiving the lowest number of votes shall be dropped and another ballot

taken, and this procedure shall be continued until an election shall be had.

Duties of President.

Section 3. It shall be the duty of the president to preside at all meetings of the Federation, preserve order, enforce the constitution and watch vigilantly over the interests and affairs of the Federation. In this he shall be assisted by all the officers of the Federation. He shall decide all questions of order, subject to an appeal to the convention. He shall have the right to vote at the election of officers, and when the members are equally divided he shall have the deciding vote on any question. He shall sign all orders drawn by the secretary-treasurer in compliance with a vote of the majority at any convention, or the executive committee. He shall take no part in any debate [448] while in the chair, but may call the vice-president or any qualified member to the chair when he wishes to discuss any question.

Duties of Vice-presidents.

Section 4. It shall be the duty of the first vice-president to assist the president to preserve order at all meetings and assist him in the discharge of all his duties, preside during his absence and perform then all the duties devolving upon the president. The second vice-president shall, in the absence of the president and the first vice-president, preside and perform all the duties of the president.

Duties of the Secretary-treasurer.

Section 5. The Secretary-treasurer shall have charge of and preserve the seal and all books, docu-

ments and effects of the general office of the Federation; shall record the proceedings of all conventions and of the meetings of the Executive Committee, and shall keep copies of important letters sent out by him; shall receive and receipt for all moneys, pay all current expenses, prepare and submit in circular form to the locals a quarterly report of all moneys received and disbursed by him, give a bond in such amount as the Executive Committee may from time to time demand, but shall not at any time have more than \$1,000 subject to his order. All other funds must be deposited by him as directed by the Executive Committee. He shall for his services receive such compensation as the convention may determine and shall at all times have his books ready for examination by the Executive Committee. All property of the Federation in his possession he shall turn over to his qualified successor.

Duties of the Warden.

Section 6. It shall be the duty of the warden to take charge of the doors within which the convention shall be held, and see that none but qualified delegates enter, and that none retire without permission of the president. [449]

Duties of Executive Committee.

Section 7. The Executive Committee shall constitute that Federation Board of Arbitration and Conciliation and between conventions shall have power to direct the workings of the Federation. The Executive Committee shall be convened by the president, or by the secretary-treasurer, at the request of three members of said committee.

Article IV.

Revenue and Disbursement.

Section 1. The revenue of this Federation shall be derived from a charter fee at cost of production and an annual per capita tax of one dollar per member in good standing, to be paid from the general fund of each local union in advance quarterly, and, in case of emergency, such assessments as in the judgment of the Executive Committee may be necessary.

Defense Fund.

Section 2. It shall be unlawful for any local union to enter upon a strike unless when ordered by three-fourths of its resident members and on approval of the Executive Board, who shall have at least thirty days' notice of the action of the local union; PROVIDED, That when employers refuse to give thirty days' notice, or thirty days' time to consider the proposed change in wages or working time made by them to the local union, then it shall be lawful for such local union to strike in order to maintain their position, and they shall be entitled to receive all the assistance which approved by the Executive Board would entitle them to.

Article V.

Organizers.

Section 1. The president, with the approval of the Executive Committee, may appoint organizers in any state or territory who [450] shall diligently labor to organize all non-union miners and report all work done by him regularly to the secretary-treasurer. Organizers shall receive for their

services three dollars per day and expenses for time actually spent in the discharge of their duties. The local union organized shall pay the organizer, but failing to organize with a membership of at least fifteen, the Executive Committee shall pay the amount earned.

Section 2. This constitution shall not be amended except by a two-thirds vote of all delegates assembled in annual convention.

Section 3. Any local union failing or refusing to comply with this constitution shall for the first offense be suspended from the privileges and benefits of the Federation for three months, and for a second offense six months or be expelled, as the Executive Committee may determine.

Section 4. Each member at initiation shall pledge himself to support the constitution of this Federation and obey all lawful orders of the Executive Committee, in addition to the obligation required by the local union of which he becomes a member.

During the reading a dispatch arrived to Bro. Duggan of Utah that the Mining Co.'s had conceded the Miners their old wages but would deduct 25 *cts* per day from the mine laborers wages.

On Motion it is the sense of the Western Federation of Miners that the Miners of Utah should stand by the mine laborers against all encroachments of their rights.

On Motion a dispatch to that effect was sent signed by the Chairman and Secy and countersigned by Bro. John Duggan.

On Motion The Charter Fee was made the actual cost of Production.

On Motion The adoption of the constitution as a whole was deferred till nearer the close of the session.
[451]

The chair appoints the following Bros. as Committee on Printing and Press:

John L. Williams, of Butte, Mont.

J. T. Beale ———, Colo.

Patrick Burk, Gem, Idaho.

John Duggan, Eureka, Utah.

Stephen Nicholas, Central City, S. Dak.

On Motion Nothing is to be given to the Press during the session of this convention.

An invitation from the Bystander was accepted to visit their office to-morrow at noon.

On Motion adjourned till 9 o'clock A. M. to-morrow.

T. MALOUIN,
Sec'y.

Transcribed by

W. J. WEEKS,

Sec'y-Treas.

W. F. M. [452]

Hall of Western Federation of Miners,

May 17, 1893.

Meeting called to order by Chairman John McLeod.

On Motion we proceeded to the regular order of Business.

On Motion Secretary of committee on constitution read By laws Section by section.

On Motion This matter be referred to committee on constitution.

On Motion a recess of 15 minutes was taken.

On Motion committee on constitution appointed committee on By Laws.

Sec'y of com. instructed to read By laws.

On Motion we proceed to adopt By laws section by Section. The following by laws were then adopted During the reading of which a Sec'y of com. was substituted by Motion to allow Bro Duggan to telegraph to his union.

BY-LAWS.

Article 1.

Section 1. Whenever a strike shall be approved by the Executive Committee or a local union as authorized by Section 2, Article IV., of the constitution, such local union shall designate the person or committee to whom aid shall be sent by the secretary-treasurer, and such person or committee shall be held responsible for the proper use of such aid and make complete returns to the Executive Committee and the local union of the receipts and disbursements and the persons aided.

Section 2. The secretary-treasurer shall make all remittances by draft in favor of the person or committee authorized by the local union to receive aid, and take sealed receipt for the same.

Section 3. The Executive Committee shall send to each local union which has paid per capita tax, a quarterly password, and [453] on the first of January and July, a semi-annual password to be given to any member in good standing who may desire to travel.

Section 4. All withdrawal, transfer and traveling cards of this Federation shall be made of uniform design.

Section 5. The Western Federation of Miners has adopted, for the sake of uniformity, the following supplies which must be procured from the secretary-treasurer, viz.: constitutions, traveling cards, transfer cards, quarterly report blanks and the authorized metal badges of the Federation at cost.

Section 6. On presentation of a traveling card to any union, the holder shall be entitled to the same benefits, financial and otherwise, to which he would be if in his local union, and shall be aided in procuring employment when desired; PROVIDED, That all money paid to any member under this section shall be repaid by the local union to which the member then belongs.

Section 7. Whenever two or more union men may be employed, not in the vicinity of a local union, one of them shall act as collector and forward to their respective unions monthly all dues and assessments for which they may be liable.

Section 8. No member shall be admitted to a seat in a local union or any convention while under the influence of liquor and any member refusing to obey the order of the president in either case shall be fined one dollar for each offense.

Section 9. Each local union may provide for the education of its members by establishing and maintaining a library for the use of its members, and the use of such newspapers as are deemed best calculated to promote the interests of the mining community.

On Motion a recess of 30 minutes was taken.

On Motion The constitution and By laws was adopted as a whole.

On Motion the Section following was adopted as a section to the By laws. [454]

Districts.

Section 10. Where two or more local unions exist, they may, if they deem it necessary, organize a District Union, for the purpose of doing business jointly for the District, the local unions to elect delegates to the District Union. But District Unions shall be subordinate to the Federation.

On Motion The Press Committee was instructed to have 100 copies of the constitution and By Laws printed at once.

On motion a committee of 5 was appointed on charter and Ritual.

Com: Bart Maloy, Butte, Mont.

J. T. McLennon, Granite, Mont.

Stephen Nicholas, S. Dak.

Wm. Cunningham, Butte, Mont.

Jos. Poynton, Mullan, Idaho.

AFTERNOON.

On Motion the resignation W. A. Shiflebin was accepted.

On Motion the President of The Butte Union is allowed to cast the vote of the absent members of his Delegation.

On Motion Adjourned till 10 o'clock to-morrow.

T. MALOUIN,

Sec'y.

Transcribed by

W. J. WEEKS,

Sec'y Treas.

W. F. M.

Hall Western Federation of Miners.

May 13, 1893.

Convention was called to order by Chairman John McLeod. Minutes of Previous were read and approved as corrected.

Committee on Charter and Uniform Ritual asked further time to report.

Report of committee on rules of order and order of Business [455] adopted as read. The following is their report:

Order of Business.

1. Call the meeting to order.
2. Warden, secure the door.
3. Presentation of credentials.
4. Roll call.
5. Reading minutes of previous meeting.
6. Communications and correspondence.
7. Bills.
8. Report of officers.
9. Report of Standing Committees.
10. Report of Special Committees.
11. New Business.
12. Unfinished Business.
13. Election of officers.
14. Good and Welfare of the Federation.
15. Installation of officers.
16. Adjournment.

Rules of Order.

During the continuance of the meeting silence must be observed, the officers and members retaining their respective seats, and no one leaving the room without permission of the President or Vice-president.

No member shall, by conversation or otherwise, interrupt the business of the Association, or refuse to obey the chair.

The President, while presiding, will state every question coming before the Association, and immediately before putting it to a vote shall ask: "Are you ready for the question?" Should no member rise to speak, or by silence indicate their readiness, he shall rise to take the question, and after he has risen, no member shall be permitted to speak upon it. He shall pronounce the result or decision of the Association upon all subjects.

Every member, when he speaks or offers a motion, shall rise and respectfully address the presiding officer. While speaking he shall confine himself to the question under debate, avoiding all personality and indecorous language, as well as any reflection upon the union or its members.

Should two or more members rise to speak at the same time, the [456] Chair shall decide who is entitled to the floor.

No member shall disturb another in his speech, unless to call him to order for words spoken.

If a member, while speaking, shall be called to order at the request of the chair, he shall cease

speaking and take his seat until the question of order is determined, when, if permitted, he may again proceed.

No member shall speak more than once on the same question, until all the members wishing to speak shall have had an opportunity to do so, nor more than twice without permission of the Chair.

When any communication, petition, or memorial is presented, before it is read, a brief statement of its contents shall be made by the introducer to the Chair.

No motion shall be subject to action unless seconded and stated by the Chair.

Any member may call for a division of a question when the sense will admit of it.

When a question is before the Association, no motion shall be received unless to close the previous question, to lay on the table, to postpone indefinitely, to refer, to amend, and shall have precedence in the order herein arranged—the first three of which shall be decided without debate.

After any question, except one of indefinite postponement, or one the result of which the Association cannot reverse, has been decided, any two members who vote in the majority may, at the same meeting, move for a reconsideration thereof.

No amendments shall be received except they be in writing.

All questions not provided for by the Constitution, By-laws, Rules of Order, or by the general laws of the Association, shall be determined by a ma-

jority of the members at a regular meeting.

These rules may be suspended for a special purpose by a vote of [457] two-thirds of the members present.

Cushing's Manual shall guide the proceedings of this Association in the absence of any Rules of Order not herein provided for.

Invitations from the Citizens of Anaconda to the Delegates of this convention to visit them was accepted and Bro. Poynton instructed to make a date.

On Motion adjourned till 2 o'clock P. M.

T. MALOUIN,

Secy.

Transcribed by

W. J. WEEKS,

Sec'y Treas.

W. F. M.

Afternoon.

Hall Western Federation of Miners.

May 18, 1893.

Convention called to order by Chairman John McLeod.

Minutes of morning session read and approved.

Com. on press report that the printed copies of the constitution will probably be ready to-day.

Committee on charter Reported form of Charter and report adopted as amended.

On Motion Design of seal referred to committee on Charter.

Report of committee on Ritual adopted as amended.

Committee on resolutions Report Progress and ask further time.

On Motion Convention goes into committee of the whole to consider the salary of the Sec'y Treas.

On Motion the Sec'y Treas. shall receive Fifty Dollars per month.

On Motion Committee of the Whole Rise.

On Motion Report of Committee was adopted that the Sec'y [458] Treas. receive \$50.00, Fifty Dollars per month.

On Motion communication of Trades and labor Federation was read and filed for future reference.

On Motion adjourned till 9 o'clock A. M. to-morrow.

THOS. MALOUIN,

Secy.

Transcribed by

W. J. WEEKS,

Sec'y Treas.

W. F. M.

Hall Western Federation of Miners.

May 19, 1893.

Convention called to order by Chairman John McLeod at 10:12 A. M.

Sec'y T. Malouin absent.

On Motion W. J. Weeks was appointed Sec'y pro tem.

On Motion Roll call was dispensed with and Pass word taken up.

On Motion Minutes of previous meeting were dispensed with for the present.

On Motion Additional report of committee on charter and Ritual was adopted as read.

On Motion additional clause to the constitution as follows: Here the President shall with the approval of the Executive Committee, fill all vacancies occurring in the Executive Committee or in the office of Secretary-treasurer.

On Motion the Press Com. were instructed to take the added section to the printer.

On Motion a recess of 15 minutes was taken.

On Motion Nomination for President of Federation were declared in order. John Gilligan was placed in nomination, also John L. Williams. [459]

On Motion Nominations were closed.

By Consent the chair appointed 3 tellers, viz.: Fister of Belt Mountain, Timmons of Colorado, and Poynton of Idaho.

On Motion Ballot was by Roll call, each Delegate to cast the number of votes he is entitled to and that he deposit each vote separately.

Number of votes cast 56, of which John Gilligan 35 and J. S. Williams 21. John Gilligan having received a majority of all the votes cast was declared duly elected.

On Motion Election is made unanimous.

Nomination for 1st Vice President was Declared in order. D. D. Goode of Granite was nominated.

On Motion Sec'y was instructed to cast the vote of the convention for Bro. Goode.

Nominations for 2d Vice President were declared in order. John Duggan of Utah was nominated.

On Motion Nominations were closed and Sec'y instructed to cast the vote of the convention for Bro. Duggan.

Nominations for Sec'y Treas. were declared in order. W. J. Weeks was placed in nomination and also T. Malouin.

Moved that Nominations close and we proceed to Ballot. W. J. Weeks received 26 Votes and T. Malouin 30 Votes. Bro. Malouin was declared duly elected.

On Motion Election was made unanimous.

On Motion a Committee of five, viz.: Bros. Goode, Burke, Beal, O'Donnell and J. L. Williams were appointed ~~a com~~ on Ways and Means.

On Motion Adjourned till 2 o'clock P. M.

W. J. WEEKS,
Sec'y Pro. Tem.

Trans. by

W. J. WEEKS,
Sec'y Treas.

W.F.M. [460]

AFTERNOON.

Hall Western Federation of Miners.

Butte, May 19, 1893.

Meeting called to Order by Chairman John McLeod.

Minutes of yesterday's sessions were read and approved.

On Motion This body attend the funeral of Bro. McHugh and return to the hall after the funeral.

On Motion adjourned till after the funeral.

Meeting called to order at 2:45 P. M.

Minutes of Morning session read and approved.

Nominations for Warden Declared in order.

Wm. Cunningham Placed in nomination.

On Motion Sec'y was instructed to cast vote of convention for Bro. Cunningham.

Nominations for members of the Executive Committee declared in order. John McLeod, James Millett, Anthony Mathews and Patrick Galagher were nominated and Nominations declared closed.

On Balloting John McLeod, James Millett, Anthony Mathews and Pat Galagher, having received the highest number of Votes were declared duly elected.

On Motion The convention took up the report of the committees.

On Motion Report of Ways and Means Com. adopted and Com. discharged.

On Motion Committee on Resolutions adjourn for 10 Minutes to correct errors.

On Motion the Sec'y instructed to insert the names of Archie Gibson and Thos. Knotwell in the Constitution.

On Motion the report of the Ways and Means Com. is inserted in the By-laws.

The report of the ways and means committee is as follows:

Salaries of Delegates.

Section 11. The salary of Delegates attending Conventions [461] of the Western Federation of Miners shall be \$5 per day, while being employed on the aforesaid occasions, and all stage and railroad

expenses, except resident delegates, who shall receive the prevailing wages of their Local Union. The said salaries and transportation expenses of delegates in attendance at this first Convention to be paid by the Local Union which the delegate or delegates represent. The salaries and stage and railroad expenses of delegates attending all future Conventions shall be paid from the treasury of the Western Federation of Miners.

On Motion the Constitution was signed by all the different Delegates and that the report of the ways and Means Committee ~~be added to~~ Be referred to the committee on Printing and they be instructed to place the same in the hands of the printer to be published at once in book form.

On Motion The ~~report of~~ constitution, By laws, Report of Ways and Means Committee adopted as read.

On Motion Report of committee on Resolutions adopted as amended, which is:

WHEREAS, The Butte City Miners' Union having issued a call for delegates from all miners' unions of the West to be held in Butte, May 15, 1893, for the purpose of forming a federation of the whole for their general protection and the advancement of their interests, and

WHEREAS, By corrupt legislation silver has been deprived of its rightful value as a money metal; and,

WHEREAS, Untold loss, misery and crime have resulted from such deprivation to the business interests and the working people of our country; and

WHEREAS, Imported pauper labor has largely increased the distress of the working people by overcrowding the labor market; and,

WHEREAS, As a further means of oppression Pinkerton and other so called detective armed forces have been used by corporations and other employers; therefore be it [462]

RESOLVED, That the delegates of the various miners' unions in convention assembled, approve the call made by the Butte Miners' Union and pledge themselves to support the Western Federation of Miners organized by this convention and call upon all miners to join with us for general protection.

RESOLVED, That we condemn the damnable action of the gold bugs of Wall Street and their confederates in reducing silver to a commodity, thereby destroying the chief industries of our silver states and robbing the people of their lawful money.

RESOLVED, That we demand that the Congress of the United States re-open the mints of our country to the free and unlimited coinage of both silver and gold on equal terms at the present ratio of 16 to 1, and that the government use the coins of both metals without discrimination.

RESOLVED, That we are unalterably opposed to the repeal of what is known as the Sherman silver purchase act until it is replaced by a law providing for such free and unlimited coinage.

RESOLVED, That we pledge ourselves to aid in every movement to bring about this result and thereby give to labor its just reward and to property its full value.

RESOLVED, That we demand the repeal of all conspiracy and anti-boycott laws and the enactment of laws prohibiting the employment of any but the elected or appointed officers of any city, county and state, who shall be *bona fide* citizens of such city, county and state, for the protection of persons and property in all cases of strikes or lockouts that may result from a disagreement between employers and employees.

RESOLVED, That we are opposed to states maintaining militia companies and request working men not to join such organizations and endeavor to secure legislation that will abolish this great evil.

RESOLVED, That we demand that legislation be enacted by the mining states on behalf of the miners and the election of competent, practical miners as mine inspectors and the employment of licensed stationary engineers. [463]

RESOLVED, That we demand of the government the restoration to the people of all mineral and other lands unlawfully held by railroad and other corporations.

RESOLVED, That we demand the purchase and use by the government of all railroad and telegraph lines in the interest of the people and the establishment of postal savings banks.

RESOLVED, That we condemn as unworthy of a free people the Russian extradition treaty as being calculated to retard the growth of republican principles among people living under despotic and monarchial governments.

RESOLVED, That we heartily approve of the decision of the Supreme Court of the United States on the Geary law and demand its vigorous enforcement.

RESOLVED, That we demand the enforcement of the present immigration and foreign contract labor law and the enactment of more strenuous ones, and request our representatives in Congress to work and vote for legislation tending to this end.

RESOLVED, That we demand the election of the United States senators by the direct vote of the people.

RESOLVED, That we are in favor of the construction of the Nicaragua canal by this government if owned and controlled solely by the United States Government.

RESOLVED, We are unanimously in favor of eight hours constituting a day's work and we demand that an eight-hour law be enacted by our legislators.

RESOLVED, That we, the visiting delegates in convention assembled, tender our sincere thanks to the Butte Miners' Union and Butte Bystanders for courtesies and hospitalities extended while in Butte City.

G. R. SMITH,
Chairman.

JOHN DUGGAN,
G. H. GILES,
D. J. O'DONNELL,
STEPHEN WILLIAMS.
TOM O'BRIEN.
P. H. CLIFFORD. [464]

On Motion all unfinished Business of the Federation is Executive Com.

On Motion the next Meeting of Federation be held in Salt Lake.

On Motion President John Gilligan was duly obligated and installed to the office of President.

On Motion President John Gilligan installed the officers elect of the Federation.

On Motion the following resolution was adopted.

Resolved that whenever the Executive Committee of this Federation shall lose any time in attending to their duties on said committee they shall have \$3.50 per day for such lost time.

On Motion The Press committee is instructed to give all the proceedings of this convention to the Press with the exception of the secret work.

On Motion Adjourned till 8.30 this P. M.

T. MALOUIN,

Sec'y.

Trans by

W. J. WEEKS,

Sec'y Treas.

W.F.M.

Hall of Western Federation of Miners.

May 19, 1893.

EVENING SESSION.

Convention called to order by President John Gilligan.

Chair appoints W. J. Weeks, Sec'y Pro. Tem.

The Chair made some remarks in regard to sending a Delegate to a labor convention to be held in Chicago, on June 5th he was followed by Bros. Clif-

ford Cunningham, Thomas Obrien and Duggan.

Remarks by Bros. Leonard and Clifford, wishing a report of the Press Committee.

Remarks by Bro. Cunningham, relating to correspondents in mining [465] localities ~~on~~ where labor papers and those friendly to labor are printed with a view to getting the labor ~~of the~~ side of the question before the public.

Bro. Thos. Obrien asked that we assist in getting a congressional investigation ~~be had~~ of the late troubles in the Coeur DAlene.

Remarks by Bros. McLeod Clifford and Timmons on the same subject.

Bro. Timmons spoke on the contract labor Curse The Land question Monopoly and the benefits of Unionism.

On Motion the following Resolution offered by Bro. Clifford was adopted.

Resolved that the first official act of the Western Federation of Miners be the writing a letter to the labor ~~Bearr~~ Bureau of both houses of congress demanding an investigation of the late troubles in the Coeur D Alenes and that a copy be kept for all time by the executive committee of this Federation and that each local union receive a copy of the same.

On Motion the Press committee were discharged and the unfinished part of their work turned over to the Executive Com.

On Motion Convention adjourned Sine Die at 10:27 P. M.

W. J. WEEKS,
Secy Pro. Tem.

Trans. by

W. J. WEEKS,

Sec'y Treas.

W.F.H. [466]

Office of Western Federation of Miners.

May 20, 1893.

Meeting by Executive Committee Called to order by
President John Gilligan.

Resolved that permission be asked of the Butte
Miners Union for use of office room.

Secy. Treas. instructed to get a Seal and all Sta-
tionery necessary.

Secy. Treas. instructed to get 100 Charters printed.

May 15th Date of Organization.

Sec'y. Treas. to get up a cipher.

“ “ Bonds to be fixed at Three Thousand
Dollars.

THOS. MALOUIN,

Secy.

Trans. by

W. J. WEEKS,

Sec'y Treas.

W.F.M.

Per order of Executive committee was instructed
to cancel assement of Eureka Miners Union and ad-
vance their charter on application.

P. S. per capita tax for current quarter.

W. J. WEEKS,

Sec. Treas.

Office Western Federation of Miners.

June 3d.

Meeting of Majority of Executive Committee.

Meeting called to order by President John Gilligan for the purpose of considering the resignation of Thos. Malouin as Sec'y. Treas. of Federation.

Resignation accepted and W. J. Weeks appointed in his place subject to the approval of Executive Com.

Appointment approved by Anthony Mathews and Pat Galagher.

On Motion letter announcing the appointment of W. J. Weeks [467] forwarded to James Millett of Granite for his approval or disapproval.

ANTHONY MATHEWS,

Secy. Pro. Tem.

Trans. by

W. J. WEEKS,

Sec'y Treas.

W.F.M.

Office Western Federation of Miners.

June 6, 1893.

Meeting Majority of Executive Com. Pres. John Gilligan in Chair; W. J. Weeks was installed in the office of Secretary Treasurer of the Western Federation of Miners; Vice Thos. Malouin resigned; Bro. Weeks Bond was fixed at Three Thousand Dollars, his appointment having been approved by Bro. Jos. Millett of Granite and the President announced that he would forward the letter ~~with the~~ announcing the

appointed to Bro. John McLeod of Terrys Peak S. Dakota.

WM. CUNNINGHAM,
Sec'y. Pro. Tem.

Trans. by

W. J. WEEKS,
Sec'y Treas.
W.F.M.

Office Western Federation of Miners.

June 7th.

Meeting of Executive Board.

Pres. John Gilligan in Chair.

Bond of W. J. Weeks as Sec'y Treas. ~~see~~ with A. F. Bray and ~~Phil~~ Phil J. Harrington as Sureties accepted by Pat. Galagher, Anthony Mathews and Pres. John Gilligan.

On Motion Secy. Treas. instructed to forward \$200.00; Two Hundred Dollars to Bro. John Duggan for relief of the Striking Miners of Utah.

W. J. WEEKS,
Secretary.

On Motion Action of Granite Miners Union in forwarding per Capita Tax amounting to Two Hundred Dollars is approved.

W. J. WEEKS,
Sec'y. [468]

Office of the
WESTERN FEDERATION OF MINERS.

Butte, City, Montana, June 10, 1893.

To the Honorable Chairman of the Committee on
Education and Labor, U. S. Senate:

Dear Sir: Under the above heading we beg leave to

inform you that in the convention which organized said Federation the following resolution was unanimously adopted:

RESOLVED, That the first official act of the Western Federation of Miners, shall be the writing of alletter to the Labor Bureau of both houses of Congress demanding a Congressional investigation of the labor troubles in the Coeur D'Alenes, Idaho, last summer, and that a copy be kept for all time by the Executive Board of this Federation, and that each local union receive a copy of the same. It is a well known fact that a very deplorable state of affairs existed in Northern Idaho at that time. The United States troops were called in there by the State authorities, as we believe, without cause. Men were arrested and thrown into the most loathsome prisons and confined from two weeks, to two months, to the great injury of their health, and discharged without even the form of a trial; armed men were imported into the State in direct violation of the Constitution of the State, and it is our firm conviction that a collusion existed to the extent of a conspiracy between the Executive Department of the State of Idaho, and the so-called Mine Owners Association of the Coeur D'Alenes, and that through said conspiracy citizens of the commonwealth of Idaho were wantonly murdered and others falsely imprisoned, and that by misrepresentation of facts the United States militia were made (innocent) abettors.

Hoping you will give this your early and earnest attention, we have, as the representatives of the

Western Federation of Miners, this 9th day of June,
subscribed to the above.

Signed

JOHN GILLIGAN,
President. (Seal)
W. J. WEEKS,
Sec.-Treas. [469]
June 16, 1893.

After consulting with members of the Executive Board it is decided in order to cover cost of mailing etc. put the price of supplies as follows:

Charters, \$2.00; Transfer Traveling and Withdrawal cards at \$.75 per Hundred Constitutions @ .04 each.

The following numbers were given to the unions of this Federation.

Butte	No. 1
Lead City	No. 2
Central City	No. 3
Granite	" 4
Terrys Peak	" 5
Aspen	" 6
Belt Mountain	" 7
Barker	" 8
Mullan	" 9
Burke	" 10
Gem	" 11
Eureka	" 12
Rico	" 13
Creede	" 14 did not apply.
Curay	" 15
Bannock	" 16 did not apply.
Mammoth	" 17 " " "

June 29, 1893.

Executive Board called to order by President John Gilligan.

On Motion it is decided to send Eureka Miners Union Two hundred dollars to assist them in their strike and to inform them that while the Executive Committee did not have funds at their disposal at present Bro. John Duggan was authorized to procure counsel for the defense of the indicted Miners ~~who~~ ~~were~~ of his union and that the Ex Board would raise the money necessary some way.

W. J. WEEKS,

Sec. Treas.

Aug. 10th, 1893.

Executive Board called to order By President John Gilligan.

On Motion the Sec'y Treas. was instructed to write to J. H. Leyson and authorize him to secure copyright of the official Metallic Button of the Federation subject to the order of the Federation.

W. J. WEEKS,

Sec. Treas. [470]

August 26, 1893.

Office W.F.M.

Meeting of Executive Board called to order by President John Gilligan.

Report of Pat Gallagher on trip to Sand Creek received and accepted. Secretary-Treasurer reads his report.

Meeting adjourns subject to call of the chair.

W. J. WEEKS,

Sec. Treas.

August 31st, 1893.

Executive Board called to order by President John Gilligan.

Present James Millett, Anthony Mathews, and Patrick Gallagher.

President Gilligan states that the object of calling the meeting to consider the dispatch sent us by Bro. Poynton of the central union to the Coeur D'Alene which reads as follows:

One Mine agrees with central union to pay three and one-half all round when lead one hundred pounds and silver one ounce sell at four twenty-five if we now resume work at three Dollars all round wire advice.

On Motion the following dispatch be sent the Secretary of the Coeur D'Alene Central Union.

Executive Board says use your judgment advise holding out letter mailed.

The Secretary-Treasurer was then instructed to write a letter setting forth the sentiments of the Board when the meeting adjourned.

W. J. WEEKS,
Sec. Treas.

Sept. 18, 1893.

Office W.F.M.

Meeting local Executive Board. [471]

Meeting called to order by Pres. John Gilligan.

Present: Gallagher, Mathews and Sec. Treas.

On Motion a check for Five Hundred Dollars is drawn in favor of Anthony Mathews the amount to be turned over by him to J. F. Poynton for the use of the Coeur D'Alene strikers.

Meeting adjourned subject to call from the Pres. and Sec'y.

W. J. WEEKS,
Sec'y Treas.
Sept. 29/93.

Office W.F.M.

Meeting of local members of Executive board to consider telegrams from Coeur D'Alenes.

Present: President John Gilligan, Anthony Mathews, Patrick Gallagher and Sec'y.

On Motion a check for One Hundred and fifty Dollars is drawn in favor of John Gilligan to defray the expenses of himself, Patrick Gallagher and W. J. Weeks to the Coeur D'Alenes.

Meeting adjourned subject to call.

W. J. WEEKS,
Sec. Treas.
Oct. 11, 1893.

Office W.F.M.

Meeting local members of Executive.

Present: President, John Gilligan, Anthony Mathews, Patrick Gallagher and Sec'y.

On Motion, John Gilligan is given Five Hundred Dollars and instructed to take the same to the distressed Families in the Coeur D'Alenes and to stop at Iron Mountain and try to organize a Union there and that he be given Fifty Dollars additional for expenses.

Meeting adjourned subject to call.

W. J. WEEKS,
Sec'y. Treas. [472]

Salt Lake City, May 14, 1894.

Meeting of Annual Convention of Western Federation of Miners:

Meeting called to order by President John Gilligan.

On Roll call of officers.

President John Gilligan.

2d Vice President John Duggan.

Sec'y Treas. W. J. Weeks.

Executive Board: John McLeod, James Millett, Pat Gallagher and Anthony Mathews were present.

1st Vice President, D. D. Goode and Warden Wm. Cunningham were absent.

On Motion All except Officers of the W. F. M. retire till the Executive Board act on Credentials.

On Motion the following delegates are admitted from Butte.

Frank Hunter	2	Votes
Wm. Welsh	2	"
Jos. Thomas	2	"
Richard Thomas	2	"
Chas. Obrien	2	"
John Gilligan	1	"
Henry Davis	1	"
Pat Gallagher	1	"
Anthony Mathews	1	"
W. J. Weeks	1	"
Granite, Jas. Millett	1	"
Gem and Martina, T. C. Reed	2	"
Burke, Jas. Clancy	1	"
Belt Mountain, Henry Tegtmeier	1	Vote
Central C'y, Jos. Hinton	1	Vote

Eureka, John Duggan	1	“
Lead C’y, J. C. Green	2½	“
A. J. Coram	2½	“
Terrys Peak, C. S. Hudson	1	“
Aspen, P. H. Clifford	2	“
Wardner, Ed. Boyce	1	“
Free Coinage, John Caldewood	1	“
Ex. Board, John McLeod		

On Motion Convention adjournes till 9 o’clock A.
M., May 15, 1894.

W. J. WEEKS,
Sec’y.

Approved

W. J. W. [473]

Salt Lake City, May 15, 1894.

Meeting called to order by President John Gilligan.

Roll call of Officers.

Present: John Gilligan, Vice-President; John Duggan; Executive Board, John McLeod, Jas. Mill-ett, Pat Gallagher and Anthony Mathews.

Minutes of previous meeting read and approved.

On Motion recess taken till Sec’y Treas. arrives.

On Motion report of Sec’y Treas. is referred to the
of Executive Board.

On Motion A. J. Coram, John Duggan and Chas. Obrien were appointed as an Auditing committee to look over all financial affairs of the W. F. M.

On Motion Rules were suspended to allow a man to come into the hall to get books.

On Motion We again take up the regular order of business.

On Motion report of Sec'y Treas. is referred to the Auditing committee and that all receipts, books etc. pertaining to the finances of the W. F. M. be turned over to them.

On Motion Convention adjourns till such time as the Auditing Committee is ready to report Vote 12 for and 9 against.

W. J. WEEKS,
Sec'y.

Salt Lake City, May 16, 1894.

Meeting called to order at 9.15 A. M.

President John Gilligan in the chair.

Roll call of officers.

John Gilligan, President.

John Duggan, Vice-President.

W. J. Weeks, Secy-Treas.

John McLeod.

Anthony Mathews.

James Millett.

and Patrick Gallagher, Ex Board.

Minutes of previous meeting approved as read.

[474]

On Motion the report of the Auditing committee is referred back for completion and the services of the Sec'y-Treas. is to be at their disposal.

On Motion a recess is taken till such time as the Auditing Committee is ready to report.

W. J. WEEKS,
Sec'y.

Salt Lake, May 16, 1894.

Afternoon Session.

Meeting called to order by President John Gilligan at 1 o'clock P. M.

Reading communication from Wardner, Idaho. No action on it.

On Motion Report of Auditing Committee is read and accepted.

On Motion Committee of one is appointed to inform M. J. Elliot that he shall have the floor when he appears.

On Motion a committee of one from each state is appointed as a committee on resolutions.

On Motion Said committee is committee on press committee; Frank Hunter, C. S. Hudson, John Duggan, Ed Boyce, John Caldewood.

On Motion Committee of five appointed on Constitution.

JOS. THOMAS,
JOS. HINTON and
T. C. REED,
J. DUGGAN,
P. H. CLIFFORD,

are appointed on the Committee.

On Motion Rules are suspended and M. J. Elliot of the A. R. U. is given the floor; he speaks on the necessity of Federation and on the economic questions of the day and the necessity of labor bodies endeavoring to obtain legislation in their favor.

He is followed by Bro's. Henry Davis, A. J. Coram, Ed Boyce, John McLeod, John Duggan, Wm. Walsh and John Caldewood. [475]

On Motion A vote of thanks is given to Bro. M. J. Elliot for appearing among us.

On Motion we proceed with the regular order of business.

On Motion a communication from Bro. J. F. Whelan of Mullan is laid over till tomorrow.

On Motion a committee of five is appointed on Ritual Henry David, J. C. Green, Henry Tegtmeier, John McLeod and Jas. Millett are appointed.

On Motion A communication from Martina is placed on file be laid on the table till to-morrow.

On Motion Convention Adjourns till 9 o'clock A. M. to-morrow.

W. J. WEEKS,
Secy.

Salt Lake, May 17, 1894.

Meeting called to order at 11:10 A. M. President John Gilligan in the chair.

Minuits of previous meeting read and approved.

Report of Special committees.

Reading report of committee on ritchule.

On Motion the report of committee was received & committee Discharged.

Report of Committee on constitution and B Laws.

Moved & Sec. that we accept the report of committee and take it up section by Section for consideration carried.

Moved & Sec. that this body go into a committee of the whole for the consideration of Amendments to constitution & By Laws carrd.

Bro. A. J. Coram was then called to the chair.

1st Reading Amendment to Article 2, Section 4.

Moved & Sec. that the amendment be adopted as read. Amended that the words provided that be stricken out and the word But be inserted. Carried Unanimous Vote. [476]

On Amendment to Art. 2, Sect. 4, of the Constitution but no member shall be eligible as a delegate who has not been a member of the local union at least 12 months except in case of a union not organized that length of time.

On Motion Committee of the whole do now rise and report here at 1:30 P. M. sharp.

ANTHONY MATHEWS,
Secy. Pro. Tem.

Salt Lake, May 17, 1894.

Afternoon Session.

Meeting called to order by Chairman A. J. Coram.
Roll call of Officers.

Reading additional section to be known as section 8 of by-laws.

On Motion This section was adopted by unanimous vote.

Amendment to by-laws.

If a member takes a withdrawal card from the union he belongs to and shall happen to go to work at mining in another place, when there is a union belonging to the Federation he shall at once deposit his card in that union and if he fails to do so he shall have to pay his regular initiation fee of that union.

Reading additional section to by-laws to be known as section 9.

Carried unanimously.

Amendment. Any Bro. going to another union

camp shall immediately after he has located therein deposit a transfer card from his union which when accepted shall make him a member in good standing of such union.

Reading Amendment to sect. 5 of constitution.
Adopted unanimous.

Amendment. Duties of Sec'y and Treas.

Within the first week of April annually the Sec'y and Treas. [477] shall send to each local union two blank forms of credentials for Delegates and Alternates to Annual Convention, one of which shall be filled after election and signed by Delegate President and recording Sec'y and sealed with the seal of the union and forwarded to the Sec'y Treas. of the W. F. M. The second to be presented in same form to convention by delegate or alternate.

substitute

~~On~~ Read in ~~amendment~~ to Section Eleven of by-laws carried unanimous ~~Amendment~~ substitute.

The pay of Officers and delegates to the Annual convention of the Western Federation of Miners shall be Five Dollars per day while attending convention which shall be paid by the local union all stage and railroad expenses shall be paid by the Western Federation of Miners, resident Delegates shall be paid only the prevailing wages ~~of~~ if convention shall be held in a union town.

Reading of Additional Section to be known as Section 12 of by-laws Section adopted unanimously as follows:

These by-laws shall not be altered or Amended except at a regular session of the Federation and with

the concurrence of two-thirds of the Delegates and alternates present.

On Motion Committee of the whole rise and proceed with the regular order of business.

On Motion we suspend regular order of business and Bro. M. J. Elliot of the A. R. U. is admitted to the hall. (Bro. Elliott could not be found.)

On Motion we again take up regular order of business.

On Motion we do now adopt report of committee on Constitution and by-laws as a whole.

Reading report of committee on resolutions and press.

On Motion report referred back to committee for additional resolutions.

On Motion this body extend a vote of thanks to the Salt Lake fire department and other citizens for the courtesy extended us while in the city. [478]

On Motion this matter is referred to the committees on press for publication.

On Motion Chair appoints as assistant Sec'y to help Sec'y make out a report for all the different unions.

Anthony Mathews is appointed.

On Motion we adjourn till 10 o'clock A. M. tomorrow morning.

ANTHONY MATHEWS,

Sec'y Pro. Tem.

Minutes corrected as follows by canceling the substitute to Sect. 11 of the By-laws and that the following be ~~known~~ inserted. The Pay of Officers and delegates to the annual convention of the Western

Federation of Miners shall be Five Dollars per day while attending convention which shall be paid by Local Union except the Officers who shall be paid by the Federation unless he be an elected delegate all stage and Railroad expenses shall be paid by the W. F. M. resident delegates shall be paid only the prevailing wages where the convention shall be held in a union town.

W. J.,
Secy.

Salt Lake, May 18, 1894.

Meeting called to order by President John Gilligan. Roll call of officers and delegates.

Reading of minutes of previous meeting and approved as corrected.

Communications and correspondence.

On Motion we now take up the communication of Martina Miners Union.

On Motion Sec'y and Treas. is instructed to write to all the Senators and congressmen of the North West under the Seal of the W. F. M. and ask them to do all in their power to defeat the bill in relation to assessment work on Mining claims introduced by Senator Shoup of Idaho. Vote 17 for. 3 against.
[479]

On Motion we take up and read resolution of committee on resolutions and press.

On Motion Resolutions be now adopted as a whole subject to correction of committee.

The following resolutions have been adopted by the convention:

WHEREAS, Recent events have shown that the

military arm of the Government is intended and maintained solely for the protection of capital regardless of the civil rights of toilers, and

WHEREAS, The greed of capital, aided by political tools, has succeeded in amassing billions of wealth through corrupt legislation. We condemn the present tendency of capitalistic tyrants to concentrate in the forms of combination and trusts for the purpose of better enabling them to oppress and coerce labor to work for starvation wages, therefore be it

1. RESOLVED, That we call on all branches of organized labor to unite under one common head through State and National organizations for the purpose of immediate protection, and that we may better concentrate our efforts at the ballot box for the enacting of laws beneficial to the masses of the people and the repeal of all laws which place capital above labor.

2. RESOLVED, That the militia shall be used only after the ordinary local or county peace officers have been proven insufficient to protect person and property, and not as a menace to labor and an ally of capital in the oppression of labor.

3. RESOLVED, That we will use every lawful influence to elect to Congress and State Legislatures men who will pledge themselves to work and vote for a repeal of the (silver) demonetization law of 1873.

4. RESOLVED, That we will work to secure the enactment of a proper liability law, and effective mine inspection law and the election of Mine Inspectors and the gradual reduction of working hours in mines to eight hours per day, the abolishing of

Sunday work in order to promote [480] the moral, social and intellectual welfare of the people through religion, rest and recreation.

5. RESOLVED, That we will labor to establish and maintain a fund by equal contribution from all miners for payment of an accident insurance, and in case of death or total disability, a reasonable amount to be paid to their family or nearest relatives.

6. RESOLVED, That we deem as the best means to secure equality and justice through law; and that we will work unceasingly to establish the initiative and referendum and thus make the people the actual rulers instead of plutocrats and politicians.

7. RESOLVED, That owing to the millions of willing workers now idle, we demand the strict enforcement of the present pauper immigration laws now on our statute books and the enactment by Congress of a law establishing compulsory arbitration in every case of wage dispute between employers and employees in every protected industry so that the benefits of protection may be more equally distributed.

8. RESOLVED, That we demand the enactment of a graduated income tax, a postal savings law and the loan direct to the people on approved real estate security in sums more than 50 per cent of assessed valuation, at a rate of interest not to exceed 3 per cent and the Government ownership of railroads and telegraphs.

9. RESOLVED, That as wolves could not be entrusted to legislate for the good of sheep, neither should bankers be further entrusted with the finan-

cial legislation of our country, and therefore, we demand that the law of January 16, 1790, be enforced, which reads, "Nor shall any person holding an office or stock in any institution in the nature of a bank for issuing or discounting bills or notes payable to bearer on order, under the authority of the United States, be a member of either while he holds such."

10. RESOLVED, That we are in favor of the free and unlimited coinage of silver, at the ratio of 16 to 1; and we are opposed to the [481] further issue of interest bearing bonds, and we approve the stand taken by the members of Congress in favor of silver, and condemn those members opposing it. We approve the action taken by General Master Workman Sovereign in opposing the recent issue of bonds.

11. RESOLVED, That we recognize in the victory by the Great Northern employees, under the able leadership of the Hon. E. V. Debs, as President of the American Railway Union, as the greatest victory gained by labor in the last quarter of a century, and we would commend the said organization to all railroad employees of the United States as the only possible means of stopping the encroachments of the general managers' association. And we also endorse the action of Judge Caldwell for the fearless manner in which he rendered his late decision in favor of the Union Pacific employees, despite the pressure of organized corporate wealth.

12. RESOLVED, That as a petition bearing over 700 signatures from the people of Northern Idaho was duly presented to William J. McConnell, Governor of Idaho, praying for the removal of the Mine

Inspector for incompetency and refusing to perform his duty when called upon by the labor organizations of the Coeur D'Alene mining district for the proper method of protecting human life in the Bunker Hill and Sullivan Mines, under the cloak of justice to all parties concerned, Governor McConnell came to Coeur D'Alene to make a thorough investigation, proved him to be an enemy of organized labor and a staunch friend of corporations, by his treacherous action in turning this petition over to the hirelings of the Bunker Hill and Sullivan companies, to be used as a blacklist against all men signing said petition; therefore be it

RESOLVED, By the Western Federation of Miners, that we appeal to all true citizens of Idaho to unite with the common purpose in view of relegating such capitalistic minions, in the guise of political servants of the oblivion their action so justly merits.

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13. RESOLVED, That we demand the immediate release of our brothers now held as prisoners by the Government, better known as the Industrial Army, and that we condemn in the strongest language the cruel action of those tyrants who are now persecuting those men with relentless barbarity.

14. RESOLVED, That we condemn the action of Congress for not investigating the late trouble in the Coeur D'Alene where a conspiracy between the Executive Department of the State of Idaho and the Mine Owners' Protective Association of the Coeur D'Alene existed, and that through said conspiracy citizens of the commonwealth in Idaho were mur-

dered and others falsely imprisoned, and that by misrepresentation of facts, the United States military were made innocent abettors. More especially do we condemn the action of Idaho's Representatives now in Washington as the willing tools of capitalistic corporations for not demanding a thorough investigation of the said trouble, as we firmly believe that they are animated with no other motive than to shield Judge Beattie from impeachment, which he so justly deserved, and further their own political aspirations.

15. RESOLVED, That we do rejoice and approve of the noble fight made by our brothers in the Coeur D'Alene and Cripple Creek mining districts and promise them our most hearty support in their fight for home and justice.

16. BE IT FURTHER RESOLVED, That we denounce the utterance of Colorado's Junior senator, Ed. O. Wolcott, in his speech of April 26, as an infamous falsehood, and that when Senator Wolcott made said statements he did so with the full knowledge of the condition of the working people throughout the country, and that we deem it a willful lie and an open bid for trusts and corporations to send him back to the Senate of the United States. We, therefore, ask that the masses of the people whom he knowingly misrepresented, will use their utmost endeavors to have him retired from public life. [483]

17. RESOLVED, That we condemn in immeasurable terms the action of the local authorities of El Paso County, Colorado, and all other citizens who, in any way, manner or form aided or abetted the lo-

cal authorities of said county in their misrepresentations to Governor Waite, and more especially Sheriff Bowers, who, we firmly believe, entered into a conspiracy with the so-called Mine Owners' Protective Association of Cripple Creek District to have innocent citizens arrested and falsely imprisoned in loathsome cells in the county jail of El Paso County, to the great injury of their health and character, and for no crime other than that they were members of a labor organization, as was proven by the District Attorney of said county requesting the discharge of Brother John Calderwood without even the form of a trial.

18. RESOLVED, That we commend the action of Governor Waite in withdrawing the State militia from Cripple Creek, Colorado, when he found out the true situation of affairs, as we are thoroughly convinced from careful investigation that it was only after great pressure had been brought to bear upon him by representations that he sent them. Therefore, we exonerate Governor Waite from all blame and declare him the true friend of the laboring people.

CHARLES S. HUDSON,
Chairman.

JOHN CALDERWOOD,
EDWARD BOYCE,
JOHN DUGGAN,

Committee.

On Motion we now take up the communication of Bro. J. F. Whelan be now taken up.

On Motion Sec'y Treas. is instructed to notify

Bro. Whelan that the suggestion of his communication are nearly all carried out excepting that part relating co operation.

On Motion we adjourn till 1.30 P. M.

W. J. WEEKS,
Sec'y. [484]

Afternoon Session.

Meeting called to order at 1.30 P. M.

Bro. Frank Hunter has the Floor to a question of privilege.

Communication of Bro. H. S. Davis read and rejected.

On Motion bill for Hall rent is laid over till after good and welfare of the Body.

On Motion Communication of Bro. Ed. Boyce is laid over till good and welfare.

On Motion the matter of insurance is turned over to the new Executive Board with instructions to draft a plan and submit it to the local unions of the W. F. M.

On Motion Matter of establishing cipher code ~~be~~ is referred to new Executive Board.

On Motion we take an informal recess of five minutes to give committee on resolutions time to report.

On Motion Bro. Ed. Boyce is instructed to wire Wallace or Wardner and inquire as to the truth or falsity of dispatches published in Salt Lake Tribune.

On Motion recess is taken till 4 o'clock.

After recess.

On Motion Salary of Sec'y Treas. is put at Fifty Dollars per month.

On Motion Jos. Poyntons name is erased from the

Charter with red ink and that notice of the same be published in the Butte Bystander.

On Motion Head quarters of the W. F. M. for the next year will be where the majority of the Executive Board is.

On Motion Each Delegate is instructed to notify his union of the action of this convention in relation to Jos. Poynton and that the Sec'y and Treas. be instructed to erase the name from all new Charters issued.

On Motion Sec'y Treas. is instructed to notify all Organizers, [485] that it is the sentiment of ~~this~~ the W. F. M. to organize all Coal Miners, Chinese excluded, in the W. F. M. and that each Delegate notify his union of the same.

On Motion Election of Officers passed for the evening and we work under good and welfare of the body.

On Motion we adjourn till 9 o'clock tomorrow morning.

W. J. WEEKS,
Secy.

Salt Lake, May 19, 1894.

Meeting called to order by President John Gilligan.

Roll call of Officers.

On Motion Reading Minutes suspended and take up business where we left off last night.

On Motion Bro. Boyce of Idaho is instructed to notify the unions of his district to fight for the W. F. M. first, last and all the time.

On Motion we accept invitation of Riley and Flood with thanks.

On Motion Matter of Lead and Central Cy. be all left in the hands of the Executive Board.

On Motion We take a recess till 12.30 P. M.

W. J. WEEKS,

Secy.

Salt Lake, May 19, 1894.

After recess.

On Motion Committee on press instructed to publish full report relating to Coeur D'Alene matters.

On Motion report of committee on Press relating to vote of thanks to the citizens and fire Department of Salt Lake be published in Butte Bystander and copies be forwarded to Salt Lake to them.

On Motion a black Book be kept by the Sec'y Treas. and ~~at~~ the names of all Non Union Men be inserted in the same and that a copy of same be forwarded to all local unions in the W. F. M. [486]

On Motion We Ballot for the place of holding next convention. No Choice.

On Motion Recess taken till 7 o'clock P. M.

After recess.

~~On Motion~~ Balloting.

Denver receives a Majority of 7 Votes.

On Motion matter of Expenses be left with the new Executive Board and they be instructed to give to the Delegates sufficient money to get home on and the bill be deducted from the amount due Delegates.

Nominations for Officers declared in order.

Nominations for President declared in order.

Nom. Jos. Thomas, W. J. Weeks.

W. J. Weeks declared elected.

Nominations for 1st Vice-Pres. in order.

Nom. Ed. Boyce, Jas. Millett.

Jas. Millett Declared Elected.

Nominations for 2d Vice-President in order.

Nom. P. H. Clifford.

On Motion Sec'y cast unanimous vote of convention carried.

Nominations for Sec'y-Treas. declared in order.

Nom. John Duggan, Wm. Walsh.

Wm. Walsh declared elected.

Nominations for warden in Order. Nom. T. C. Reed, N. S. Davis, H. S. Davis declared elected.

Nominations for Executive committee in Order.

Nom. John McLeod, Ed. Boyce, Richard Thomas, John Gilligan, J. C. Green.

On Motion John Duggan is allowed the full amount of his expenses to this convention.

On Motion we adjourn "~~Sine Die~~" to meet in Sine Die at 10.10 P. M.

W. J. WEEKS,
Secy. [487]

Butte City, May the 22, 1894.

A regular Meeting of the executive Board.

One Motion of Brother Gilleang Resignation of J. McLeod be excepted and his successor be elected. Carried unanimous.

Ed. Boice. Efermatoal.

Richard Thomas.

J. Gillegan.

On Motion that John Caldewood be elected as a member of the Exective Board Carried unanimous.

Edd. Boice. Effermative.

Richard Thomas.

J. Gillegan.

On Motion Exective Board the Bills Be allowed and ordered paid.

On Motion the Delegates from Jem and Burk be instructed to pay their pecapity tax to the Sec. and treasurer and take a receipt for the same.

On Motion that the Secretary be instructed to write to the Unions of the Black Hills and state facts as near as possibel. Carried.

P. One motion that the Sec. be instructed to rite to the different ~~off~~ Unions of Dacota and tell them to come te gather and agree one one man to Be elected as State Organiser. Carried.

One motion to ~~adurn~~ ajurn subject to call of present or Sec.-Treas. Carried.

June the 15.

Meeting of the exective Board.

Meeting called to order, W. J. Weeks presiding.

On Motion that preasant procede to Sand Cooley and organize a union their.

On Motion that Brother Thomas accompany Brother Weeks and render him all assistance in his power.

On Motion that the Sec. be instructed to draw fifty doll. in [488] favor of Richard Thomas to defray his expences. Carried.

On Motion to adjourn sbject to call of Present, or Sec.-Tr.

May the 18—1894.

Meeting of the executive board.

One motion that Preasant and Sec.-Tres. accompany deligates to Idaho and to adjust matters iff possibly. Carried.

Butte City, August 14, 1894.

Expences to W. J. Weeks and William Walsh For trip to the Courdelains:

Fair to Garson and return.....	\$ 10.40
Fair to Mousla and return	14.80
18 days work at \$3.00 per day.....	54.00
Hand car fair wagon and ferry	150.00
From hirseplains to duncon.....	4.00
Grub beads and soforth	36.00
Fair from revella to mouslar	3.00

William Walsh Organizer to Basin 3 per day and expences.

On Motion that the sentral miners union of the Cordelains be instructed to investigate that man Wilson case and to give him a fair trial and inform us of the same and if failing to do the Same the executive board will, take action on him.

Ajourned subject to call of Sec. Tres. or present.

On Motion that we draw fifty Dollars to pay expences of those too men to the Cordelains.

On Motion te adjourn subject to call of Sec. or president.

On Motion that presnt. W. J. Weeks prosede to Belt and do all in his power to Settle the trouble.

On Motion to ajourn Subject to call of Sec.-Treas.

Butte, Sep. 13, 1894.

Meeting of the Exective Board.

On Motion that a copy of the minutes of the convention be printed and a copy Sent to all Local Unions.

On Motion to adjurn Subgett to call of the Sec.-Treas. or President. [489]

Butte, Feb. 1st, 1895.

At a meeting of the members of the Executive Board the resignation of Wm. Walsh was presented, and accepted.

W. H. Eddy was then appointed until the outside members of the Board could be heard from on receiving, communications from Bro. John Calderwood Edward, P. H. Clifford, W. H. Eddy was unanimously appointed.

Office of the W. F. of M., March 26/95.

At a meeting of the Board an appeal was read from The Central Union of the Cour D'Alene, Idaho, when it was resolved that we send them two hundred dollars to afford them temporary relief.

W. H. EDDY,
Secy.-Treas.

Denver, Colo., May 13/95.

Meeting of the Annual convention Called to order by President.

P. H. Clifford in the chair. The President then delivered a short address.

Moved and Seconded that we set aside until 2 o'clock this afternoon to hear from two gentlemen who were here from Louisville to submit a proposi-

tion in regarding to becoming attached to the W. F. of M. Moved & Seconded to postpone indefinitely. Carried.

On Motion a committee of 3 was appointed by the chair on credentials. Committee Thomas Heney, Idaho, E. J. Haughey, Colorado, Thomas McLaughlin, Montana.

On Motion the convention took a recess for 20 or 30 minutes to give the committee to prepare a report.

When the committee were ready report The convention was called to order, and report of committee read, and adopted.

The following are the delegates entitled to seats in this convention.

Butte, Montana.

James Maher.	Dand Coulee, Montana.
Chas. O'Brien.	Thomas Graham.
Patrick Gallagher.	Belt Creek, Montana.
S. M. Roberts.	Robert Hendry.
Thos. McLaughlin. [490]	Clancy, by proxy.
Altman, Colorado.	Geo. B. Dwyer.
James Leonard,	Granite, Mont.
Frank Wolfe,	John Bevan.
Anaconda, Colo.	James Duffy.
J. J. Mangan.	Winston, Mont.
Ouray, Colo.	R. F. White.
E. T. Haughey.	Basin, Montana.
S. Dakota.	Jerry Mahoney.
Charles N. Alexander.	Belt Mountain, Mont.
Silverton, Colo.	Geo. B. Dwyer.
John Carver, Jas. Cox.	Victor, Colo.

Arthur Beaser.	Daniel Kildee.
Wardner, Idaho.	Burke, Idaho.
Ed. Boyce.	Thos. Heney,
Gem, Idaho.	J. J. Purcell. [491]
Edward Brady.	

On Motion the delegate from Aspen was admitted to a seat until his credentials came.

Officers, President, P. H. Clifford; Sec., W. H. Eddy.

Executive Board, John Gilligan, R. Thomas, Edward Boyce, John Calderwood.

S. M. Roberts appointed Vice-President.

Communications & correspondence under this head, the resignation of Warden H. S. Davis was read and on motion accepted.

On Motion Bro. Charles N. Alexander of Terry Peak Union, S. Dakota, was elected assistant Secretary.

Report of Officers.

Report of Sec.-Treas. read and on motion was referred to the Auditing committee.

On Motion a committee of three were appointed to Audit the books of the Sec.-Treas. consisting of Frank Wolfe, James Maher, John Bevan.

Moved and Seconded that a Com. of 3 be appointed on resolutions carried. Chair appointed.

Edward Boyce.	C. N. Alexander.
Thos. McLaughlin.	E. T. Haughey.
Thos. Graham.	

On Motion John Calderwood, S. M. Roberts, J. J. Purcell were appointed as a committee on Press.

On Motion a committee of 5 were appointed on constitution By-Laws & Ritual, Namely,—

James Cox, James Leonard, Jas. Duffy, Jerry Mahoney, Dan Kildee.

On grievance, Geo. Pert, R. F. White, Thos. Heney.

Moved and Seconded the case of The Gentleman from Louisville be referred to committee on credentials. Carried.

On Motion we do not take a recess till 2: P. M. Carried.

W. H. EDDY,
Sec. [492]

Afternoon Secession, May 13/95.

Meeting called to at 2:10, President Clifford Presiding.

Moved and Seconded the Gentlemen from Louisville be admitted to the floor of this hall to make their statement and we take a recess. It is moved to suspend the rules to admit those gentlemen. Motion to suspend the rules prevailed. Geo. Clark, Henry Denman, they were then admitted to hall when they made their statement, saying that they were in favor of federating with the W. F. of M.

On Motion the gentlemen were given a vote of thanks.

On Motion we do now take up the regular order of Business.

Moved and Seconded we do now adjourn, until tomorrow Morning at 9 o'clock. Carried.

W. H. EDDY,
Secretary.

Denver, Colo., May 14, 1895.

Convention of W. F. of M. Called to order by President Clifford in the chair.

On Roll call all delegates were present but Richard Thomas.

Minutes of Previous Meeting read and approved.

Reports of Committees.

Auditing reported as follows: We, the committee on account of report of Sec.-Treas., find a balance on hand as per Report of Sec.-Treas., \$2642.47, as follows: \$917 in favor of Cripple; \$113.50 in favor of Barker Miner's Union, \$1611.97; in favor of General fund. We will state to the Federation that it was an impossibility to figure out an account of Sec.-Treas. Walsh and were compelled to follow the figures and account of Present Sec.-Treas. and find them correct. We recommend from this time on that Sec.-Treas. keep Separate account of all transactions in index form, also that each union be requested at annual convention to send a full report of moneys paid to and received from Federation.

Signed

FRANK WOLFE,
JAMES MAHER,
JOHN BORAN,

Committee. [493]

Moved and Seconded The report be adopted and recommendations of Com. be carried out. Carried.

Committee on credentials reported Credentials of Delegate Peart of Aspen had come.

Report received.

On Motion the committee on press meet here for 30 minutes after each meeting. And that any member sojourning in this City of any local union of the W. F. of M. be extended an invitation to this convention. Carried.

Committee reported progress.

Committee on Constitution and Ritual reported progress.

New Business.

On Motion a committee of 3 was appointed to extend an invitation to the Various labor leaders of Denver to visit our convention at their convenience. Chair appointed Edward Boyce, Geo. B. Dwyer, John Calderwood.

Communication from John McBride in relation to federating with A. M. of L. read and laid over to come up again.

The question of electing a general organizer was introduced and discussed lengthly.

Communication from W. H. Harkins read. No action. Moved and seconded that this Convention elect a general organizer, and the committee on Constitution draft an Article to Constitution covering this matter.

Recess till 2 o'clock P. M.

W. H. EDDY,
Sec.

Afternoon Session.

Meeting called to order at 2:5 o'clock by the President.

Good and welfare of the Federation—under this head the case of David Tobin who had been a mem-

ber of one of the locals in the Coeur D'Alene, and had been expelled for Scabbing and other misconduct as a [494] union man came up, and was discussed. On Motion the action of the local to which he belonged was ratified, one Vote dissenting.

On Motion the Cases of Wm. Seymour of Granite Miners' Union, and Michael J. Norton, of Belt Mountain were referred to the incoming executive board.

The case of W. J. Weeks then Came up and it was discussed Pro. and con. for a considerable time, finally a committee of 5 were appointed by the chair to investigate the case.

Committee, Chas. N. Alexander, J. J. Purcell, John Bevan, Chas. O'Brien & James Leonard.

Moved and seconded we do now adjourn till 9 o'clock tomorrow Morning. Carried.

W. H. EDDY,
Sec.

Denver, Colo., May 15, 1895.

Convention of W. F. of M.

Called to order by President J. H. Clifford.

Minutes of previous read and approved.

Communications & Correspondence.

Communications from E. J. Sanford certifying to the credentials of Geo. B. Dwyer, Their delegate to this convention read and accepted.

Reports of Committees.

Committee on Constitution, Reports progress, Com. on Initiation reports progress, Committee on Resolutions reported progress, committee on investigation of W. J. Weeks case reported progress.

On Motion The convention took a recess until 2 o'clock to give the various committees an opportunity to complete Their reports.

W. H. EDDY,

Sec.

Denver, Colo., May 15, 1895.

Afternoon Session. Meeting called to order at 2:10 o'clock [495] by the president in the Chair: The President then introduced Mr. Kenchan, President of the Denver Trades and Labor assembly & Vice-President of the A. F. of L. who addressed the convention on the subject of affiliating with the A. F. of L. At the close of his remarks it was moved and seconded that this convention extend a Vote of thanks to Mr. Kenchan for coming among us and that we do wish him God speed on his journey, and a safe return. Carried unanimously.

A communication from Retail Clerks union #7 was received extending us an invitation to attend their Annual entertainment and Ball to be given in the Mining Exchange Hall on the 16th inst., 1895.

On Motion it was accepted, Secretary instructed to reply to it, and that it be placed on file.

On Motion the convention then adjourned until tomorrow morning at 9 o'clock.

W. H. EDDY,

Sec.

Denver, Colo., May 16th, 1895.

Convention called to order by President Clifford in the Chair.

Minutes of Previous Session read and adopted.

Communication from John McBride received, Ex-

tending an invitation to the W. F. of M. to Offiliate with the A. F. of L. On Motion the Communication was accepted.

Reports of Committees.

Report of Committee Ritual read. Moved & Seconded that we do resolve ourselves into a committee of the whole with the president in the chair, to take up the report of the Committee on Ritual Section by Section. Motion prevailed. The report of the committee was then taken up Section by Section and adopted as they were read.

It is moved and seconded that the committee of the whole do now rise and report in favor of adopting the report as a whole carried. The report was then adopted as a whole.

Committee on Constitution. Report of committee read.

On Motion we take it up Section by Section, ~~carried~~ with the [496] Chair Man of the Committee on Constitution in the Chair. Carried.

On Motion The Convention then took a recess till 1:30 P. M.

Afternoon Session called to order by Chairman of the committee of the whole James Cox.

The Convention then resumed the consideration of the report of committee on constitution. Amendment to Section 1, of Article 3, by inserting the words General Organizer after the word Warden. Adopted as read by a Vote of 47 to 4.

Amendment to Section 3 of Article by inserting General Organizer after the words Executive Committee in filling vacancies. Carried unanimously.

Article 3, further amended by adding Section 8, which is as follows: Duties of General Organizer: It shall be the duty of the General Organizer to immediately place himself in communication with persons living in camps where the W. F. of M. does not exist and have them organized as soon as possible subject to the approval of the Executive Committee. For his services he shall receive \$5.00 five dollars per day and transportation while at work. Said expenses shall come out of Contingent fund set aside by the Executive Board of which one dollar of the initiation fee of each initiate shall be in the new locals Shall be collected for the period of 3 months and those initiated within that time shall be known as charter members and if said collections are not sufficient to meet the expense of organizing the Sec.-Treas. shall collect the deficiency by assessments levied on all members under the jurisdiction of the W. F. of M. Adopted.

To further Amend Article 3; by adding the following to be known as section 9: The organizer on organizing a local shall immediately forward notice to the Sec. Treas. giving names of officers and their P. O. address, and order for supplies at the expense of said local. Adopted.

To amend article 5, by striking out section 1, and insert the following: Should any trouble arise in an unorganized district while [497] the General Organizer is unable to attend, the president with the approval of the Executive Board shall appoint a temporary organizer in case of an emergency and said temporary organizer to be appointed from the near-

est union to the district that wishes to be organized.
Adopted.

To amend Section 1 of Article 3 by striking out the warden. Adopted.

Section 2 of Article 3. Nominations of officers of this federation shall be made from the floor, but election must be by ballot. Should no candidate receive a majority of the votes cast the candidate securing the lowest number of votes shall be dropped and another ballot taken and this procedure continues until some candidate receives a majority of all votes cast—Adopted.

Amendments to ByLaws.

By adding Article 2—Section 1.

Any member or members of the W. F. of M. leaving the jurisdiction of the W. F. of M. for a period of 12 months or more and said member or members neglecting to take a withdrawal card will be held for 12 months' dues and two assessments to the local union to which the member belonged: Provided such assessments have been levied. Adopted Section 2, Local unions shall preserve all receipts issued by the Sec-Treasurer and shall have the same presented to the finance committee through their delegates to the Annual Convention of the W. F. of M. in order to Compare them with the Stubs of the receipt books of Sec-Treas. Adopted.

Com. of the whole rose, reported progress.

Committee on Resolutions reported. Resolutions Read, Moved and seconded. They be adopted and a copy given to the press for publication. Carried.

Committee is continued to draft Resolutions of condolence on the death of James Millett of Granite, and John Duggan.

On Motion The convention then adjourned until tomorrow morning at 9 O'clock

W. H. EDDY,
Sec. [498]

Denver, Colo., May 17th, 1895.

Meeting of Executive called to order by Chairman of the board P. H. Clifford.

Members present, P. H. Clifford, Richard Thomas, John Gilligan, Edward Boyce, John Calderwood.

On Motion the following bills for Transportation to Denver, Colo., were allowed and ordered paid:

Jerry Mahoney.....	3.70
John Bevan.....	6.10
James Duffy.....	6.10
James Cox.....	41.00
E. T. Haughey.....	31.30
Cripple Creek delegation.....	37.00
Geo. B. Dwyer.....	26.40
Dan Kildee.....	70.00
J. J. Purcell.....	70.00
Chas. N. Alexander.....	50.70
Thos. Heeney.....	70.00
John Carver.....	40.00
Robert Hendry.....	20.40
Thomas Graham.....	19.30
Edward Brady.....	70.00

Robert F. White.....	12.00	
Edward Boyce.....	70.00	
George Peart.....	24.00	
A. E. Hewey.....	35.30	703.30
Committee then adjourned.		

W. H. EDDY,
Sec.

Denver, Colo., May 17, 1895.

Convention called to order. President, P. H. Clifford in the chair.

Roll call all delegates Present but Brady, Kildee, Thomas.

Minutes of Previous session read and approved.

On Motion The convention resolved itself into a committee of the whole to complete the report of the committee on Constitution and By Laws. Section 3 of Article 2 Adopted Section 4 of Article 2, Adopted Section 5 of Article 2. Adopted Section 6 of Article 2. Adopted Section 7 of Articles 2. All locals shall hold their semi-annual elections of officers on the first meeting nights in March and September [499] each year And the financial Secretary shall send names of officers elected to the Sec. Treas. of the W. F. of M. he shall make out directory of the Same and forward a copy to each local union of the W. F. of M. Adopted.

On Motion the Sec. Treas. was instructed to prepare a list of the Names of the local unions, and names of their officers printed and furnished to each local union in the W. F. of M.

Moved and Seconded the committee do now arise and report carried.

On Motion the amendments to By Laws were adopted by the Convention. Moved to take a recess till 2 o'clock. Carried.

W. H. EDDY,
Sec.

Denver, Colo., May 17th, 1895.

Afternoon Session. Meeting called to order by President P. H. Clifford. Delegates all present.

Report of Committee on resolutions received, and placed on file and copy ordered given to the press. On Motion all resolutions be given to the press tonight. Carried. Report of grievance committee read, and on motion was recommitted. Investigating Committee on W. J. Week's case report progress. New business.

Under this head the question of Federating with the A. F. of L. was taken up. Moved and seconded that we do federate with the A. F. of L.. A long discussion followed for and against when it was moved to refrain from further discussion until tomorrow morning at 9 o'clock. Carried. Moved and Seconded the committee on conference with a like committee from Trades Assembly use their endeavors to get exgovernor David H. Wait, Myron Reed & Herb George to Address the public meeting to be held in this hall tomorrow night. Carried.

Moved to adjourn until tomorrow morning at 9 o'clock. Carried.

W. H. EDDY,
Sec. [500]

Denver, Colo., May 18, 1895.

Meeting called to order by the Pres.

P. H. Clifford in the chair.

Roll call.

Minutes of previous Session read and approved.

Discussion of Federation resumed. Moved and seconded that we do now take a recess until 10:30 o'clock to give the various delegates an opportunity to go to the bank and their checks cashed. Carried.

At 10:30 sharp the Convention was called to order by the President. The question of Fed. again resumed. Previous question is moved and carried. The Vote was then taken on Federation with the following result. The vote being taken by ayes and nays.

Ayes.—P. H. Clifford, John Calderwood, Edward Boyce, Frank Wolfe, James Leonard, Arthur Beaser, Jas. Cox, John Carver, Geo. Peart, A. E. Hewey, Robert Hendry, Thomas Graham, J. J. Purcell, Edward Brady, Thomas Heeney, Dan Kildee, J. J. Mangan, E. T. Haughey, 23 Votes.

Noes.—James Maher, S. M. Roberts, Chas. O'Brien, Thos. McLaughlin, Pat Gallagher, W. H. Eddy, R. Thomas, John Gilligan, John Bevan, Jas. Duffy, Robert F. White, Geo. B. Dwyer, Jerry Mahoney, 28 Votes. C. N. Alexander not Present.

The Question of Federating defeated by a Majority of 5 Vote.

On Motion This question of Federating was referred to the local unions for further discussion—Unanimously.

Moved and Seconded the committee on Press inform the reports that the question had been referred back to the locals for further discussion instead of giving them the affirmative & Negative Vote. Carried.

Report of committee on grievance read. Moved and Seconded that Lead City & Central City local unions be reinstated by paying current quarter per capita tax, and Special Assessment \$1. Carried.

Motion to take a recess till 2: o'clock. Carried.

W. H. WEDD. [501]

May 18, 1895.

Afternoon Session.

Meeting called to order by President Clifford. Motion to dispense with roll call carried. Report of Committees. Report of investigation on W. J. Weeks. Case read and lengthly discussed. Moved and seconded report be accepted and recommendations of committee carried out that it be referred to the New Executive Board and that Board get what evidence they can from W. J. Weeks, and report result to Cripple Creeks Unions at least. On Motion Bro. Elmer Parkison was granted the privilege of the floor to State to the convention what he knew about this question.

The Previous question was moved and on being put to a vote was lost—Report of Committee Adopted.

New Business.

Under this head, it was moved Seconded the head Quarters of the W. F. of M. should be located for the ensuing year. Carried.

Nominations & Election of Officers.

For President, S. M. Roberts, P. Gallagher.

On Motion were closed.

S. M. Roberts received 30 Votes.

Patrick Gallagher, 22 Votes.

S. M. Roberts was declared elected President of the W. F. of M. for the ensuing year.

Nomination & Election for 1st Vice President. James Leonard of Altman, Colo., Nominated. Elected Unanimously. John Bevan of Granite was Nominated for Second Vice Pres. Elected unanimously.

Nominations for Members of Ex. Board, Thos. Graham, Sand Coulee, Mont., Chas. N. Alexander, Terry, South Dak., Geo. B. Dwyer, Neihart, Mont., James Maher, Butte, Mont., R. Thomas, Butte, Mont., Frank Wolfe, Altman, Thomas McLaughlin, Butte, Mont., Frank Wolfe declines.

Vote taken on two members of the Board for Butte. James Maher received 36, Richard Thomas, 28, Thomas McLaughlin, 24. [502]

James Maher & Richard Thomas were declared elected—On Motion. The election of Bros. Maher & Thomas was made unanimous,—Balloting on Chas. N. Alexder, Thomas Graham & Geo. B. Dwyer was then taken up and resulted as follows,

Thomas Graham, 37 Votes.

Chas. N. Alexander, 43.

Geo. B. Dwyer, 11.

Election of Chas. N. Alexander & Thomas Graham were made unanimous.

On Motion The Convention then adjourned till tomorrow morning 9 O'Clock.

W. H. EDDY,
Sec.

Denver, Colorado, May 19th, 1895.

Convention called to order by P. H. Clifford in the chair.

Roll Call. Delegates absent, Thomas Graham, Rob. Hendry, Chas. O'Brien, Rich Thomas, Jerry Mahoney.

Minutes of previous session read and approved. Moved and Seconded we do now take a recess till 10 O'Clock. Carried.

Meeting called to order by the President. Nominations of officers resumed, W. H. Eddy nomination for Secretary-Treasurer.

Moved and Seconded the Nominations for Secretary-Treasurer and that the assistant secretary be instructed to Cast the ballot of this convention for W. H. Eddy for Sec-Treas. Carried.

The Assistant Secretary, Chas. N. Alexander, cast the ballot; W. H. Eddy is declared elected, for the ensuing year, unanimously.

Nominations for General Organizer were declared in order. Nominees, Ed. Boyce, Wardner, Idaho, & Jno. Caldewood, of Victor, Colo. Recess is taken for five minutes to prepare ballots.

Ed Boyce received 35 Votes.

John Calderwood 15 Votes. [503]

Moved to make the Election of Bro. Ed. Boyce unanimous—Carried.

On Motion Edward Boyce is allowed his per diem from the Treasury of the W. F. of M.

Moved and Seconded this Convention Send a delegate to the National Labor Conference & that he be a delegate at large to attend all such conferences at direction of Ex. Board. Carried.

Moved and Seconded his pay come under the head of pay of officers as laid down in the constitution and by Laws. Carried.

Moved and Seconded, The delegates to Conferences report to Sec. Treas. and at next convention. Carried.

Nominations for place to hold next Annual convention.

Denver, Spokane, Anaconda, Mont.; Ogden, Boise City, Idaho, Butte, Mont., Cheyenne, were nominated.

Result of first ballot.		Boise	14	“
Denver	11 Votes	Third Ballot.		
Spokane	7	“	Denver	17
Anaconda	5	“	Spokane	4
Odgen	10	“	Odgen	17
Boise	13	“	Boise	13
Butte	0	“	4th Ballot.	
Cheyenne	4	“	Denver	20 Votes
Second Ballot.		Odgen	18	“
Denver	15 Votes	Boise	13	“
Spokane	5	“	Fifth Ballot.	
Anaconda	1	“	Denver	30
Odgen	16	“	Odgen	21

Denver having received a majority of all Votes cast was declared to be the next place where the

Annual Convention of the W. F. of M. would be held.

Installation of Officers.

The following were installed.

President, S. M. Roberts, Butte, Mont.

First Vice-President, James Leonard, Altman, Colo. [504]

Second Vice-President, John Bevan, Granite, Montana.

Executive Board, Jas. Maher, Butte; Richard Thomas, Butte; Chas. N. Alexander, Terry Peak, S. Dakota; Thomas Graham, Sand Coulee, Mont.; W. H. Eddy, Sec. Treas., Butte; Organizer, Ed Boyce, Wardner, Idaho; Delegate to Labor Conferences, P. H. Clifford.

Moved and Seconded that we Present the janitor of this hall twenty-five dollars for his services Since this convention commenced. Carried.

Moved, Seconded & Carried that we give our Moral Support to other labor organizations to help them to make boycott's more effective.

Moved that this convention give ~~there~~ its delegates instructions to act and cooperate with the other labor organizations for the purpose of passing an eight hour law. Carried.

Moved and Seconded that George Pettybone be and is hereby allowed to become an honorary member of the W. F. of M. for two years. Carried.

Moved and Seconded that the Butte Bystander be made the Official Organ of the W. F. of M. for the Next Year. Carried.

On Motion The convention then took a recess till 1:30 O'Clock.

W. H. EDDY,
Sec.

Afternoon Session called to order by President S. M. Roberts. Good and Welfare. Geo. B. Dwyer exemplified the New Secret Work to the convention.

Moved & Seconded, that when any local of this Federation shall become defunct the Secretary of such shall return what property it may have over to the Sec. Treas. of this Federation. Also send names of members in good standing at time of such local becoming defunct. The Sec. Treas. Shall issue withdrawal to those members. Carried.

Bro. Frank Wolfe of Cripple Creek District made a verbal statement [505] of the Money he had received from various sources on behalf of the Cripple Creek Miners and thanked the convention for what it had done through its locals.

Moved and Seconded that Bro. Ed Boyce, General Organizer, use his best endeavors to get Virginia City Miners Union to join the W. F. of M. Carried.

Moved and Seconded that this convention do now adjourn Sine die. Carried.

W. H. EDDY,
Sec.

Denver, Colo., May 19/95.

Meeting of Executive Board called to order By P. H. Clifford.

The following bill were read and allowed:

P. H. Clifford.....	39.00
Edward Boyce, Per Diem.....	70.00
Richard Thomas, Per Diem.....	50.00
John Gilligan, Per diem.....	70.00
John Calderwood, Per diem.....	64.25
W. H. Eddy for Paper ect.....	70.90
	<hr/>
	334.15
Paid Janitor of Hall.....	25.00
	<hr/>
	389.15

On Motion The Committee adjourned Sine die.

W. H. EDDY,
Clerk of Board.

Office of the W. F. of M., June 3rd, '95.

Meeting of Ex. Board called to order By Chairman
S. M. Roberts.

On Motion it was unanimously resolved that Another Special assessment of fifty cents per member on all members of the W. F. of M. be levied for to further help defray the expenses in connection with the trials of the Cripple Creek Miners.

The Next Business.

Sec. Treas made an application for an increase of Salary, Stating that as the convention had imposed more work on his office and [506] furthermore the work in connection with new locals being organized was increasing he did not feel like doing the work for one dollar and sixty six & two thirds cents a day.

It was suggested that he write all the locals, and solicit their opinions on this question the Board hav-

ing some doubt as to whether it had the power to raise the salary of the Sec Treas between conventions Sec Treas said he would carry out the suggestion in writing to all locals.

On Motion the price of constitution was raised from 4 to 5 cents each. Rituals same price as before namely \$1.00. All kinds of Cards such as Traveling Transfer & withdrawal Cards One Dollar per hundred.

Moved and seconded that the Sec. Treas procure a letter press and that he use his own judgement in regard to the price of it. Carried.

Board adjourned subject to the call of the Chairman of the board.

W. H. EDDY,

Sec. of Board.

Offices The Western of Miners. June 22nd, 1895.

Meeting of the Executive called to order by S. M. Roberts, Chairman of the Board.

Members of the Board present S. M. Roberts, Jas. Maher Richard Thomas and General Organizer Edward Boyce, who had come over from Idaho, to organize a local union at St. Louis in this State.

It was decided that Bro Boyce should go to St. Louis first, organize a union, then to Neihart, and look into the Company Store affair. Then return to Butte. Then go back to Silver City Idaho. Then to Delamar, then to Gibbons Ville.

On Motion he was allowed one hundred and fifty dollars for travelling expenses and per diem.

Board adjourned subject to the Call of the Chair.

Office of W. F. of M. June 27/95.

Meeting of Executive called to order by S. M. Roberts Chairman of the Board. Members of the Board Present. S. M. Roberts, James Maher Richard Thomas. W. H. Eddy, Secy.

The Secretary read the report of the Committee of investigation on Bro. W. J. Weeks case which was referred to the Board by the last convention of the W. F. of M. to get Bro Weeks testimony.

Bro Weeks went on and said that he wrote the letter in question and he did not think that he had done anything wrong in so doing as he was President of the Federation and he thought that according to the Preamble of the Constitution and the tenor of the resolutions adopted at the Convention of this Federation held at Salt Lake City in May 1894. That he as President had a perfect right to write the said over his signature. He gave the Board to understand that he might disclose something of how this matter came about in the first place if he had been treated right by the Colorado union after the publication of his letter. He further stated that his resignation was in the hands of the Board before the resolutions denouncing him had reached here and before his resignation was called for. He further stated to the Board that he would submit a written statement of his position.

Adjourned subject to call of the chair.

W. H. EDDY,

Sec.

Office of W. F. of M. July 5, 1895.

Meeting of the Ex. Bd. was held, President Roberts presiding.

William Seymour a Member of the Granite Came before the Meeting and made the following Statement in regard to his being at De La Mar at the time of the strike of the Miners there and had been accused of advocating that the Miners should return to work at the reduced rate of wages. [508]

William Seymour stated that he returned to Granite from De Le Mar About the latter part of November last And about the beginning of December he attended a Meeting of the Granite Miners Union and made a report about De La Mar and that his report was accepted.

He stated further that everything ran along all right until March Month when Nominations for Officers was made in the Union.

Bro. Seymour said that he received the nomination for Office of Financial Secretary.

Then one Geo. Nixon who was at Delamar said that Seymour had advocated that the Miners should return to work at the reduced wages.

This Bro. Seymour denies. He was then asked by the Board to withdraw from the office for a while, he then withdrew.

The Board then Considered the case of Bro. Seymour. And decided to exonerate him. Which they did.

The next business brought before the meeting was a communication from the Belt Mountain Miners Union which was sent to the Ex. Bd. for Publication.

After due consideration it was decided that it was not good policy at this time to publish this communication in the papers.

There being no further business the board adjourned subject to the call of the chair.

W. H. EDDY,
Secy.

Office of W. F. of M., July 16th, 1895.

Meeting of the Ex. Bd. called to order by President Roberts.

Communication from Lead City M. U. read asking for further time in which to pay their per capita tax and special Assessments On Motion They were granted further time.

Communication from Bro. Dan Caldwell, Ex. Fin. Secy. of Granite Miners Union read desiring The board to ask the Granite Miners Union [509] to send papers Notes & Etc. pertaining to his trial before a committee of the Granite M. U.

On Motion The Secy-Treas. was instructed to write The Granite Union for those papers Notes & Etc.

Adjourned subject to the call of the Chair.

W. H. EDDY,
Secy. of Board.

Office of W. F. of M., July 17, 1895.

Meeting of the Ex. Bd. Called to order by S. M. Roberts, Chairman.

Bro. Tegmier of Belt Mountain Miners Union was present to make a complete statement of his unions grievance between it and the Broad-Water Mining Company.

Bro. Tegmier made his statement.

On Motion it was decided that the Ex. Bd. would give its sympathy to the Belt Mountin Union in its Case against the aforesaid Mining Company. Adjourned.

W. H. EDDY,
Secy.

Office of W. F. of M., July 27, 1895.

Meeting of Ex. Bd. Called to order by Chairman Roberts.

Communication from Silverton Miners Union read asking permission to amalgamate with Sky City Union.

On Motion the communication was accepted. The both unions are allowed to Amalgamate.

It was also decided to send S. M. Roberts to Wardner.

W. H. EDDY,
Sec. Treas.

Office of W. F. of M., August 1, 1895.

Meeting of Ex. Bd. Called to order by Jas. Maher, communication from Sky City Miners Union read asking if they could Consolidate with Silverton Miner's Union. [510]

It was agreed that Sec. Treas. write them about the same answer to this letter as he did to Silverton.

The next question that came up was the pay of S. M. Roberts, President. He having been sent to Wallace, Idaho, in relation to the trouble there. It was agreed between the board Present that he should receive \$3.50 per and railroad fare, and that the Sec.

Treas. is hereby instructed to write Bro. Thomas Graham for his opinion on this question.

W. H. EDDY,
Sec. Treas.

Office of W. F. of M., August 10th, 1895.

Meeting of Ex. B. called to order by Chairman S. M. Roberts.

Brother S. M. Roberts read his report on the Coeur D'Alene. No action taken on it.

Moved and Seconded the Secretary Treasurer be instructed to write brother Ed. Boyce and ask him to continue at the work he is now at in behalf of the Wardner Miners and that he be paid three and half dollars (\$3.50) per day. Carried.

Bill of S. M. Roberts for 9 days Services in Coeur D'Alene at five dollars per day and Rail Road fare of twenty-five dollars and fifty-five cents (\$25.55). After some discussion it was moved that Bro. Roberts be allowed only \$3.50 per day and his Rail Road fare, Bro. Roberts not being satisfied with this action or his salary said you can look for a new President of the Western Federation of Miners.

There being no further business before the Board, it adjourned.

W. H. EDDY,
Secy. Ed. Bd.

Office of the W. F. of M. September 26th, 1895.

At a meeting of the Ex. Bd. held on the above date, the resignation of S. M. Roberts, President of the W. F. of M. was read and accepted, and Secy Treas instructed to notify James Leonard, First

(Testimony of Ernest Mills.)

Vice-President [511] At Altman, Colorado, that he is now President of the W. F. of M.

W. H. EDDY,
Secy.

Office of the W. F. of M. Oct. 19th, 1895.

At a meeting of the Ex. Bd. held on this date it was decided to Send Bro Boyce Gen Organizer, to Juneau Alaska, to organize the Miners there. And that the Secy-Treas be instructed to give Bro Boyce Two Hundred Dollars \$200.00 to pay his wages and Mileage.

W. H. EDDY. [512]

Mr. HILTON.—The purpose of this is to show who the original officers of the Federation were, the time and place of its organization, and the fact that the names of the officers, John Gilligan and W. J. Weeks, who signed the charter that has been introduced in evidence, as being the same persons, and for the purpose of contradicting or impeaching the witness Deeney.

Cross-examination by Mr. BREEN.

The WITNESS.—None of this book is in my handwriting; it was not kept by me except that it was in my custody.

(Witness excused.) [513]

**Testimony of J. C. Lowney, for Plaintiff (in
Rebuttal).**

J. C. LOWNEY, a witness called on behalf of plaintiff, in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. HILTON.

The WITNESS.—My name is J. C. Lowney, and I reside in Butte, having resided here twenty-seven years. I am not a member of the defendant corporation. I am a member of the Western Federation of Miners, and have been a member of that organization since it was organized in 1893, and occupied the official position in that order of member of the executive board. I was in Butte in 1893, during the fall of that year and during the spring of that year. I was familiar with the original charter issued by the executive board of the Western Federation of Miners in convention assembled in May or June of 1893, delivered to and used by the Butte Miners' local. I saw it first hanging up in the hall on the north side of the Miners' Union Hall, and had occasion to inspect it several times as a member of that organization. I was acquainted afterwards with a new charter under date of October 3d, 1914, that was sent to the local organization. Those two instruments were identical in form, in substance. The clause was identical and alike that provided in each for the forfeiture of the property and money of the local organization in case they became defunct and went out of business. [514]

(Testimony of J. C. Lowney.)

Cross-examination by Mr. BREEN.

The WITNESS.—I said I was a member of the Butte Miners' Union in May, 1893. I am not acquainted with the fact that Charles O'Brien, a former member, now deceased, opposed having anything to do with any organization that would call for a forfeiture of any property, and that the union unanimously refused to consider to have anything to do with a central organization that would confiscate their property if they were dissatisfied with the way things went, and that it went on for some time, this discussion. I am not acquainted with that fact. I am a member of the executive board and have been since June, 1906, and have been on a salary practically ever since.

Q. What is that salary?

Mr. HILTON.—We object to that as incompetent, irrelevant and immaterial, and not proper cross-examination.

The COURT.—Overruled.

A. Four dollars a day.

The WITNESS.—It is not five dollars, and it is not two and a half for expenses. It is not a fact that I have been getting two dollars and a half for expenses. I have an expense account in every report, but it never exceeded two dollars, and went as low as thirty-four dollars a month. I examined that charter.

Q. Do you remember a convention of the Western Federation [515] of Miners in Denver, when everybody but yourself, or when you were the con-

(Testimony of J. C. Lowney.)

testing delegate, you and Mr. Duffy, and when you were seated the Butte delegation withdrew and returned to Butte? A. Yes, sir. I did not at that time examine that charter at the request of Mr. Moyer, and consult counsel to see if the union could not be suspended, and the property confiscated. I never met Mr. Moyer for two years after that. I do not know of my own knowledge of Mr. Moyer's taking such action. I know that John H. Murphy, I was informed of that matter, John H. Murphy, a Federation attorney, drew some process, which was furnished you on such matter, a general brief. I do not remember you making the answer, "Forget it" that I didn't have a chance, because you retained the brief and held onto it. This brief was about the right of general organizations to subordinate lodges, and quoted authorities throughout the country. I do not recall that Mr. Murphy's brief requested you to investigate that and see if the property could not be taken. I will state in answer to my statement that the Butte Miners' Union immediately sent another delegation to replace the delegation that bolted, and that was the next week. I don't recollect that this action that I referred to being taken by a legal representative was immediately after this bolt. I know that you were furnished a brief probably a year [516] later, some time later, by John H. Murphy. I did not see your answer; never got any answer from you that I remember.

Redirect Examination by Mr. HILTON.

The WITNESS.—During the time that counsel

(Testimony of J. C. Lowney.)

has interrogated me concerning an interview which I might have had with Mr. Moyer, Mr. Moyer was in jail.

(Witness excused.)

Mr. GEAGAN.—The complainants now rest.

Mr. BREEN.—Well, we rest too, your Honor.

We, the undersigned attorneys and counsel for the respective parties complainants and defendants, hereby submit the foregoing 270 typewritten pages as a condensed statement of the evidence given and offered at the trial of this cause, except as to immaterial typographical errors.

CANNING & GEAGAN,

O. N. HILTON,

E. P. KELLY,

Counsel for Complainants and Appellants.

PETER BREEN and

A. C. McDANIEL,

Counsel for Defendant and Respondent.

Approved:

BOURQUIN,

J.

Filed Nov. 3, 1916. Geo. W. Sproule, Clerk.

[517]

On October 30, 1916, an Assignment of Errors was filed herein as follows, to wit: [518]

*In the District Court of the United States for the
District of Montana.*

CHARLES H. MOYER, as Trustee, CHARLES H.
MOYER, ERNEST MILLS, and C. E. MA-
HONEY, as Members of the Western Feder-
ation of Miners, a Voluntary Unincorporated
Association of Persons with Its Headquarters
in the City and County of Denver, Colorado,
Complainants,

vs.

THE BUTTE MINERS' UNION, a Corporation,
Defendant.

Assignment of Errors.

Now come the complainants by their solicitors and
say :

That in the Decree heretofore entered in this cause
on the 15th day of May, 1916, the Court erred in the
following particulars :

I. The Court erred in ordering that the complain-
ants take nothing by this action.

II. The Court erred in ordering that the com-
plainants and each of them and their servants, agents,
representatives, attorneys and employees and all per-
sons acting for them or either of them or by their
authority or by the authority of either of them, or
in their behalf, or in the behalf of either of them,
or under their control, or under the control of either
of them, be enjoined and permanently restrained
and enjoined from in any manner interfering with or
asserting any claim to, or claiming any of the prop-

erty, real, personal or mixed, of the defendant.

III. That the Court erred in enjoining and restraining the Complainants from in any manner interfering with or asserting any claim to, or claiming any of the property, real, personal or mixed, of the defendant, and particularly the property described in the Complaint and Decree herein.

IV. That the Court erred in adjudging and decreeing the defendant to be the sole owner of and entitled to the possession of the property described in the Bill of Complaint, and described in the Decree herein as follows: [519]

“The south fifty (50) feet of lot numbered one (1) and the south fifty (50) feet of lot numbered (2) and the south fifty (50) feet of the east twenty-one (21) feet of lot numbered three (3) all in block numbered eleven (11) of the Butte Townsite, according to the official plat and survey thereof of record in the office of the county clerk and recorder of Silver Bow County, Montana.

A note and mortgage to secure the said note for the sum of twenty-five thousand (\$25,000.00) Dollars, given by the Lead City Miners' Union, a corporation of the state of South Dakota, to The Butte Miners Union, the defendant herein. The mortgage securing said note having been heretofore foreclosed and the property of the Lead City Miners' Union in Lead, So. Dakota, having been sold at sheriff's sale under said foreclosure, and having been bought in for and

in behalf of the said The Butte Miners' Union, the defendant herein;

All the money and certificates of deposit in the Daly Bank and Trust Company, of Butte, Montana;

Any and all books, papers, seals and other property."

V. That the Court erred in not finding that the defendant has no Estate or interest whatsoever in and to the lands and property described in the Complaint herein, and in the Decree herein.

VI. That the Court erred in not finding and ordering that the complainants were the owners of and entitled to the possession of the property described in the Bill of Complaint and in the Decree herein.

VII. That the Court erred in not finding and ordering and decreeing that the defendant turn over to, transfer to, and convey to, the Western Federation of Miners, all of the property described in the Complaint herein, and in the Decree herein.

VIII. That the Court erred in not enjoining and restraining the defendant and its agents, servants, employees and officers from asserting any claim whatsoever in and to the lands, and property described in the Bill of Complaint herein, and in the Decree herein, adverse to the complainants herein.

IX. The Court erred in admitting the following testimony of the witness, Charles Baxter:

"Q. Was this charter that was signed on or about the fifth day of October, or the one bearing date I believe of Denver, dated October 3d, was that char-

ter ever accepted by the Butte Miners' Union, a corporation, the defendant here?

Mr. GEAGAN.—We object to that as calling for a conclusion of the witness. [520]

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. Never, to my knowledge."

"Q. Who presented exhibit "F" to you?

Mr. GEAGAN.—To which we object as incompetent, irrelevant and immaterial.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. Guy Miller, the personal representative of C. H. Moyer.

The WITNESS.—Guy Miller is one of the members of the Executive Board. I cannot state who prepared this, and do not know of my own knowledge whether Guy Miller prepared it or not. I was in my own home when this was presented to me, and my home is on South Colorado Street, Number 2530.

I was in department two of the District Court of the Second Judicial District of the State of Montana, in and for the County of Silver Bow, when Guy Miller was on the stand and being interrogated in regard to this.

Q. Did you hear him testify at that time that he had, or admit that he had, gone to every individual whose name appears here, to solicit their signature to this?

Mr. HILTON.—I submit that would be wholly incompetent.

Which objection was by the Court sustained, to which ruling the defendant then and there duly asked for and was allowed an exception.

Q. After this there was a suit brought by Mr. Miller and others in the District Court in regard to what is set forth here, was there not?

Mr. GEAGAN.—We object to that as calling for a conclusion [521] of the witness, the best evidence being the record itself.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. Yes, sir.

Q. During all of the times and since the matter was decided by the Supreme Court on the 3d day of July, last, you have been a member of the Butte Miners' Union, a corporation, defendant here, have you not?

Mr. GEAGAN.—To which we object, if your Honor please, as incompetent, irrelevant and immaterial; and on the further ground and for the further reason that there is incorporated in the question a statement which calls for a conclusion of the witness as to what was stated by the Supreme Court of the State of Montana; on the ground and for the reason that the Supreme Court of the State of Montana has never handed down any opinion or rendered an opinion as to what position they took, save and except to grant a supervisory control for the setting aside of a certain restraining order issued out of the District Court.

Which objection was by the Court overruled, to

which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. I have been continuously a member in good standing since May, 1898, the last time."

"Q. Mr. Baxter, yesterday your attention was called to your signature appearing on an article here, Plaintiffs' Exhibit "F," and you were asked if you signed that article, or that document. Now, why did you sign it?

Mr. GEAGAN.—We object to that, if your Honor please, as irrelevant and immaterial, and not proper examination as to the instrument. The instrument itself shows the [522] reasons why it was signed, and those reasons it appears to state upon its face.

The COURT.—What are you offering it for?

Mr. BREEN.—I am offering it to show that upon an investigation by this witness after his signature being on there, that he found that the facts were not as represented in that document, and represented to him by Mr. Miller.

The COURT.—Well, I doubt if it is material, but if that is the purpose he may answer. The objection is overruled.

To which ruling of the Court the plaintiffs then and there duly asked for and were allowed an exception.

A. Mr. Miller came to me and explained the clause in the constitution of the Western Federation of Miners which had been adopted showing where the officials of the Federation had power to take charge of the affairs of the union under certain conditions, which were that there should be charges preferred

and proven against the officers, and that they should be deposed from office and a new election called. and he went on talking that way, and so I signed the thought of the way the office was being conducted, and he went on talking that way, and so I signed the petition, and he said then, after I signed it—

Mr. GEAGAN.—We object to what was said after signing it.

Which objection was by the Court sustained, to which ruling the defendant then and there asked for and was allowed an exception.

A. I have not explained why I signed it yet.

Q. Was there any other reason given by Mr. Miller than the one you have stated?

A. Yes. That we should have a fair election and elect a new set of officers afterwards, but before such an action could take place the regular election came on and [523] there was a new set of officers elected, and then the Federation still brought suit to forfeit all the property so that I didn't think then that he was sincere in his petition."

X. The Court erred in admitting in evidence the following testimony of the witness Jacob Oliver:

"Q. Mr. Oliver, prior to the Butte Miners' Union becoming a member of the local of the Western Federation of Miners, was there any argument or discussion as to what their rights, or what liabilities would be incurred by becoming a member?

A. There was considerable.

Mr. GEAGAN.—To which we object as incompetent, irrelevant and immaterial, and not within the issues of the case at bar, and that whatever discus-

sions there were, if there were such discussions, were merged in the contract as evidenced by the charter of the Western Federation of Miners to the Butte Miners' Union, a corporation, and that the same could not be contradicted by evidence relating to any discussion prior to entering into the contract, or upon any evidence not evidenced by any record, and if not shown that there was any discussion taken by the organization as a corporation.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

Q. Will you state what was done and what examination and investigation or understanding was had before the Butte Miners' Union voted to become a member of the Federation?

Mr. HILTON.—We object to that, unless the question goes farther and shows between who that understanding was had.

The COURT.—Any understanding; if there was any discussion [524] let him state the substance of it with reference to what would be the effect of joining the Federation.

Mr. BREEN.—That is what I am aiming at.

The COURT.—Let him state that. You understand, he is asking you if anything of the sort took place in the Union.

A. In the Union Hall?

Q. That is what I mean. I don't mean anything on the sidewalk.

A. There were discussions for several meetings pro and con, as to the result of the Butte Union joining

the Federation. In fact, I was one of the fellows who were opposed to the organization of the Western Federation, and I know—

Mr. GEAGAN.—I move that that statement of the witness be stricken out.

The COURT.—Denied.

A. (Continuing.) —and I know one of the points that was asked of the fellows, you might say the opposition, was this: In case of trouble in the Coeur d'Alenes, there had been trouble over there, and our union was an incorporated body and the other unions were unincorporated, or voluntary associations, and there was any property destroyed or any lives lost, would we be held liable; and we were told frankly, no; and with that understanding we practically, well, we were unanimous, finally in joining the Federation.”

“Q. And at the time that Mr. Geagan refers to in reference to this second charter they sent in October, about the fifth or twelfth of October, the discussion that you had there was—were they discussing this forfeiture clause generally, not alone Mr. Leahy, but the members generally at the time you referred to?

Mr. GEAGAN.—We object to that as leading and suggestive [525] and improper redirect examination.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. Well, it seemed to be the general understanding there.”

XI. The Court erred in admitting in evidence the

following testimony of the witness, William E. Deeney:

“Q. Did that constitution contain any forfeiture clause, or authorize the taking of the property of any withdrawing local from the Federation?

Mr. GEAGAN.—We object to that, if your Honor please, as incompetent, for the reason that the constitution itself is the best evidence of whether it contains such a clause or not.

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.

A. No, there was no clause of the kind to my knowledge in the constitution, that is the first constitution.”

XII. The Court erred in admitting in evidence the following testimony of the witness Frank O'Connor:

“Q. Do you recall whether or not there was a provision in the constitution in use in 1893, the constitution of the Butte Miners' Union, the defendant here, providing for the payment of funeral expenses and sick benefits and the care of dependent ones of deceased members?

Mr. GEAGAN.—To which we object, if your Honor please, that the best evidence, it appearing that the witness now on the stand likely has one of the constitutions in his possession at his home, and that being the fact the instrument would be the best evidence itself.

The COURT.—He may answer now, and produce

it this afternoon, if he has one, and introduce it in evidence. Overruled. [526]

To which ruling of the Court the plaintiffs then and there duly asked for and were allowed an exception.

A. During the time that I have been secretary there was a standing offer that no member would have to be buried in the Potter's grave.

The WITNESS.—There was a provision in the constitution providing for a certain amount each week during sickness, and a certain amount for funeral expenses, and so on. That provision remained during the time that this Butte Miners' Union was a member of the Western Federation of Miners, after 1893, up to the 13th of June, and later there have been funeral benefits paid."

XIII. The Court erred in admitting in evidence the following testimony of the witness Pat Leahy:

"Q. Well, did you, or did the Butte Miners' Union, a corporation, receive any correspondence, or were they in any manner recognized, or receive any quarterly reports from the Western Federation of Miners, after this month of October, 1914?

Mr. GEAGAN.—We object to that as incompetent, irrelevant and immaterial, and calling for a conclusion of the witness as to the quarterly report. And its reception or non-reception, would be immaterial to the issues in this case.

The COURT.—Overruled.

A. No, sir.

Q. Were they in any manner recognized by the Federation after the letter written by Mr. O'Neill, except by lawsuits since the date of that letter?

A. No, sir.

Mr. GEAGAN.—We object to that as irrelevant and immaterial, and calling for the conclusion of the witness. [527]

Which objection was by the Court overruled, to which ruling the plaintiffs then and there duly asked for and were allowed an exception.”

XIV. The Court erred in admitting in evidence the following testimony of the witness James J. Maher:

“Q. At that time the Granite Mountain Miners’ Union owned a large hall and considerable property, did it not? A. Yes, sir.

Mr. GEAGAN.—We object to that as irrelevant and immaterial.

The COURT.—It might be a circumstance in actions of this character whether or not a forfeiture clause was in the original charter of the defendant. The objection is overruled.

To which ruling the plaintiffs then and there duly asked for and were allowed an exception.”

XV. The Court erred in admitting in evidence the following testimony of the witness Pat Lee:

“Mr. BREEN.—We now offer the document known as Defendant’s 4 for identification, and one identified by Mr. Lee, the witness on the stand, as a circular letter from Mr. Moyer.

Mr. GEAGAN.—To which we object on the ground and for the reason that the same is incompetent, irrelevant and immaterial to the issues involved at bar, the document affirmatively appearing on its face to relate to a public communication in the papers and

press; that it does not relate to any action or communication which was placed in the hands of the Western Federation of Miners, and that the same is not relevant or material or competent to bind the parties to this action in relation to the contract now before the Court for interpretation upon the evidence.

The COURT.—If the document is entitled to no weight the Court will give it none. Overruled. [528]

To which ruling of the Court the plaintiffs then and there duly asked for and were allowed an exception.

Which said document is as follows:

Independence. Education. Organization. Western Federation of Miners. Officers. Chas. H. Moyer, President, 503 Denham Building, Denver, Colorado. C. E. Mahoney, Vice-President 503 Denham Building, Denver, Colo. Ernest Mills, Secy.-Treas., 503 Denham Building, Denver Colo. John M. O'Neill, Editor, 503 Denham Building, Denver, Colo. Executive Board. J. C. Lowney, 450 N. Idaho St., Butte, Montana. Yanco Terzich, Angels Camp, California. Wm. Davidson, New Denver British Columbia. Guy E. Miller P. O. Box 300, Joplin, Missouri. Western Federation of Miners Organized May 15, 1893. Affiliated with A. F. of L. 503-511 Denham Building, Denver, Colo. SBT. & OAU. \$14,491.

December 16, 1914.

To the Officers and Members of Local Unions, Western Federation of Miners.

Dear Sirs and Brothers:—

Having noticed in the daily press of Butte City a

long and vicious article which purports to be a petition sent from Butte Union No. 1 to other locals of our Federation, this is to officially notify all locals of the Western Federation of Miners that said petition, or whatever it may be called, is not an official act of the Butte Miners' Union No. 1, of the Western Federation of Miners, but emanates from a few men who after having agreed with me in the month of June that it would be for the best interest of No. 1 that they should tender their resignations as officers-elect of the local and having done so in writing, yet in forty-eight hours after I left Butte repudiated said resignations and were installed in office, and, as good and sufficient proof will be furnished, have since that time absolutely [529] refused to cooperate with the representative of your Federation or to comply with its laws, but have in fact labored apparently with all their might to compete the job undertaken by the mobs of June 13th and 23rd, which was to absolutely destroy ever vestige of unionism in Butte City, the only difference in the methods being that they have followed the program of looting the treasury while the other applied direct action and sabotage. When stopped by the constitutional amendment to our law which was taken advantage of by many more than the ten per cent of the membership required petitioning the President of your organization to take charge of the affairs of the local, they absolutely refused to conform to the constitution and have taken this step *seeking divert* attention from their infamy by charging Federation officials with attempting to disrupt No. One. This

action was taken after your Executive Board Member Guy E. Miller, acting for the Federation in my behalf, had read the petition and notified the union that under the Federation law its affairs were under the control of the Western Federation, they therefore, being without authority to act officially for the local.

This will be a sufficient guide for our local unions until the next issue of the Miners' Magazine, when every detail of the situation will be placed before the membership by Board member Miller, who is on the ground, as well as Vice-President Mahoney and Board member Lowney. I shall, also, for the benefit of the membership and the public fully review the Butte situation in that issue of our official organ.

Fraternally yours,

[Seal]

CHARLES H. MOYER,

President.

Waste Basket.

WESTERN FEDERATION OF MINERS."

[530]

WHEREFORE: The said complainants, Charles H. Moyer, as Trustee, Charles H. Moyer, Ernest Mills, and C. E. Mahoney, as members of the Western Federation of Miners a Voluntary Unincorporated Association of Persons with its Headquarters in the City and County of Denver, Colorado, pray that the said judgment and decree of the said District Court of the United States for the District

of Montana, be reversed.

O. N. HILTON,
CANNING & GEAGAN,
E. P. KELLY,

Solicitors for Complainants. [531]

No. 33. In the District Court of the United States for the District of Montana. Charles H. Moyer, as Trustee, et al., Complainants, vs. The Butte Miners' Union, a Corporation, Defendant. Assignment of Errors. Filed Oct. 30, 1916. Geo. W. Sproule, Clerk. By Harry H. Walker, Deputy. O. N. Hilton, Canning & Geagan and E. P. Kelly, Solicitors for Complainants. [532]

And thereafter on the 30th day of October, 1916, Petition for Appeal and Allowance and order granting same was filed herein, as follows, to wit:

*In the District Court of the United States, for the
District of Montana.*

CHARLES H. MOYER, as Trustee, CHARLES H. MOYER, ERNEST MILLS, and C. E. MAHONEY, as Members of the Western Federation of Miners a Voluntary Unincorporated Association of Persons With Its Headquarters in the City and County of Denver, Colorado,
Complainants,

vs.

THE BUTTE MINERS' UNION, a Corporation,
Defendant.

Petition for Appeal and Allowance.

The above-named complainants, Charles H. Moyer, as Trustee, Charles H. Moyer, Ernest Mills, and C. E. Mahoney, as members of the Western Federation of Miners a Voluntary Unincorporated Association of Persons with its Headquarters in the City and County of Denver, Colorado, conceiving themselves aggrieved by the Decree entered in the above-entitled court on the 15 day of May, 1916, in the above-entitled cause, do hereby appeal from said Decree to the United States Circuit Court of Appeals, for the Ninth Circuit, for the reasons specified in the "Assignment of Errors" which is filed herewith, and they pray that an Appeal be allowed, and that a Citation issue as provided by law, and that a Transcript of the records and proceedings upon which said Decree was based, duly authenticated, may be sent to the United States Circuit Court of Appeals, for the Ninth Circuit.

And your petitioners further pray, that a proper Order touching the security to be required of them to perfect their appeal be made.

CANNING & GEAGAN,

O. N. HILTON,

P. E. GEAGAN and

E. P. KELLY,

Solicitors for Complainants.

The foregoing Petition is hereby granted, and the Appeal is hereby [533] allowed this 30 day of

Oct. 1916, and the bond on appeal is hereby fixed at the sum of Five Hundred (\$) Dollars.

BOURQUIN,

Judge of the United States District Court in and for the District of Montana.

[Endorsed]: Title of Court and Cause. Petition for Appeal and Allowance. Filed Oct. 30, 1916. Geo. W. Sproule, Clerk. By Harry H. Walker, Deputy.
[534]

On October 30, 1916, Bond on Appeal was filed herein, being as follows, to wit:

In the District Court of the United States, for the District of Montana.

CHARLES H. MOYER, as Trustee, CHARLES H. MOYER, ERNEST MILLS, and C. E. MAHONEY, as Members of the Western Federation of Miners a Voluntary Unincorporated Association of Persons With Its Headquarters in the City and County of Denver, Colorado,
Complainants,

vs.

THE BUTTE MINERS' UNION, a Corporation,
Defendant.

Bond on Appeal.

KNOW ALL MEN BY THESE PRESENTS that we, Charles H. Moyer, as Trustee, Charles H. Moyer, Ernest Mills, and C. E. Mahoney, as members of the Western Federation of Miners a Voluntary Unincorporated Association of Persons with

its Headquarters in the City and County of Denver, Colorado, as principals, and The Aetna Accident and Liability Company of Hartford, Connecticut, as security, are held and firmly bound unto the above-named, The Butte Miners' Union, a corporation in the sum of Five Hundred and 00/100 (\$500) Dollars, for the payment of which, well and truly to be made, we bind ourselves jointly and severally, and each of our heirs, executors, administrators, successors and assigns, firmly by these presents.

Sealed with our seals and dated this 28 day of October, 1916.

WHEREAS the above-named complainants have prosecuted an Appeal to the United States Circuit Court of Appeals for the Ninth Circuit, to reverse a Decree rendered and entered in the above-entitled cause in the United States District Court for the District of Montana, on the 15th day of May, 1916;

NOW THEREFORE the condition of this obligation, is such, that if the above-named complainants, Charles H. Moyer, as Trustee, Charles H. [535] Moyer, Ernest Mills, and C. E. Mahoney, as members of the Western Federation of Miners, a voluntary unincorporated Association of persons with its headquarters in the City and County of Denver, Colorado, shall prosecute their said appeal to effect and shall answer all damages and costs that may be awarded against them, if they fail to make good their plea, then the above obligation is to be void, otherwise to remain in full force and virtue.

It is expressly agreed by The Aetna Accident and Liability Company of Hartford, Connecticut, the

surety above-named that in case of a breach of any condition of this Bond, the Court may upon notice of not less than ten (10) days to said The Aetna Accident and Liability Company of Hartford, Connecticut, proceed summarily in this action to ascertain the amount which said surety is bound to pay on account of such breach, and render judgment against the said The Aetna Accident and Liability Company of Hartford, Connecticut, and award execution therefor.

CHARLES H. MOYER, as Trustee, CHARLES H. MOYER, ERNEST MILLS, and C. E. MAHONEY, as Members of the Western Federation of Miners a Voluntary Unincorporated Association of Persons With Its Headquarters in the City and County of Denver, Colorado.

By P. E. GEAGAN,

CANNING & GEAGAN,

Of Counsel for Complainants. [536]

[Corporation Seal]

THE AETNA ACCIDENT & LIABILITY
COMPANY,

PAUL WALCOTT,

Resident Vice-President,

N. JORY,

Resident Assistant Secretary.

The foregoing Bond on Appeal is hereby approved
this 30 day of October, 1916.

BOURQUIN,

Judge of the Court. [537]

No. 33. In the District Court of the United States, for the District of Montana. Charles H. Moyer, as Trustee, et al., Complainants, vs. The Butte Miners' Union, a Corporation, Defendant. Bond on Appeal. Filed October 30, 1916. Geo. W. Sproule, Clerk. By Harry H. Walker, Deputy.
[538]

On October 30, 1916, a Citation was issued and thereafter filed herein, being as follows, to wit:

*In the District Court of the United States for the
District of Montana.*

CHARLES H. MOYER, as Trustee, CHARLES
H. MOYER, ERNEST MILLS, and C. E.
MAHONEY, as Members of the Western
Federation of Miners, a Voluntary Unincor-
porated Association of Persons With Its
Headquarters in the City and County of
Denver, Colorado,

Complainants,

vs.

THE BUTTE MINERS' UNION, a Corporation,
Defendant.

Citation on Appeal.

UNITED STATES OF AMERICA,—ss.

The President of the United States to, The Butte
Miners' Union, a Corporation, Defendant, and
to Peter Breen, Esq., and A. C. McDaniel, Esq.,
Its Solicitors:

You are hereby cited and admonished to be and
appear before the United States Circuit Court of
Appeals for the Ninth Circuit at the City of San

Francisco, State of California, within thirty (30) days from the date hereof, pursuant to an Appeal filed in the office of the clerk of the District Court of the United States, in and for the District of Montana, wherein, Charles H. Moyer, as Trustee, Charles H. Moyer, Ernest Mills, and C. E. Mahoney, as members of the Western Federation of Miners, a voluntary unincorporated association of persons with its headquarters in the City and County of Denver, Colorado, are the appellants and The Butte Miners' Union, a corporation, as the appellee to show cause if any there be, why the Decree in said Appeal mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS the Honorable GEO. M. BOURQUIN, Judge of the United States District Court for the District of Montana, this 30th day of October, 1916, and of the [539] Independence of the United States the One Hundred and Forty-first, at the City of Butte, in the State of Montana.

GEO. M. BOURQUIN,
Judge of the United States District Court for Montana.

Service of the foregoing Citation on Appeal, acknowledged and copy thereof received this 30th day of October, A. D. 1916.

PETER BREEN,
A. C. McDANIEL,
Solicitors for Defendant. [540]

No. 33. In the District Court of the United States for the District of Montana. Charles H. Moyer, as

Trustee, et al., Complainants, vs. The Butte Miners' Union, a Corporation, Defendant. Citation on Appeal. Filed Oct. 30, 1916. Geo. W. Sproule, Clerk. By Harry H. Walker, Deputy. O. N. Hilton, Canning & Geagan and E. P. Kelly, Solicitors for Complainants. [541]

On October 30, 1916, Praeceptum for Record on Appeal was filed herein, being as follows, to wit:

In the District Court of the United States, for the District of Montana.

CHARLES H. MOYER, as Trustee, CHARLES H. MOYER, ERNEST MILLS, and C. E. MAHONEY, as Members of the Western Federation of Miners, a Voluntary Unincorporated Association of Persons With Its Headquarters in the City and County of Denver, Colorado,

Complainants,

vs.

THE BUTTE MINERS' UNION, a Corporation,
Defendant.

Praeceptum for Record on Appeal.

To Geo. W. Sproule, Clerk of the District Court of the United States for the District of Montana:

You will please make up a record on appeal in the above-entitled cause from the District Court of the United States for the District of Montana, to the Circuit Court of Appeals of the United States for the Ninth Circuit, and certify the same as required by law, and the rules of the above-entitled court, and the Circuit Court of Appeals of the United States

for the Ninth Circuit and incorporate in said Record on Appeal the following papers and documents to wit:

1. The Bill of Complaint of the Complainants.
2. The Answer of the Defendant.
3. A condensed form of the Testimony taken at the hearing on the trial of the above-entitled cause in the District Court of the United States for the District of Montana, in the month of February, 1916.
4. The Opinion of the Court in the above-entitled Cause.
5. The Decree made and entered in the above-entitled Cause on the 15th day of May, 1916.
6. Complainants' Assignment of Errors filed herein.
7. The Petition and Allowance of Appeal, filed herein.
8. The Bond on Appeal, filed herein. [542]
9. The Citation on Appeal filed herein.

Dated this 30th day of October, 1916.

CANNING AND GEAGAN,
O. N. HILTON,
E. P. KELLY,

Counsel for Complainants.

[Endorsed]: Title of Court and Cause. Praecipe for Record on Appeal. Filed October 30, 1916. Geo. W. Sproule, Clerk. By Harry H. Walker, Deputy. O. N. Hilton, Canning & Geagan, and E. P. Kelly, Counsel for Complainants. [543]

Clerk's Certificate to Transcript of Record.

United States of America,
District of Montana,—ss.

I, Geo. W. Sproule, Clerk of the United States District Court for the District of Montana, do hereby certify and return to the Honorable, the United States Circuit Court of Appeals for the Ninth Circuit, that the foregoing volume, consisting of 543 pages, numbered consecutively from 1 to 543, inclusive, is a true and correct transcript of the pleadings, orders, decree, opinion of the Court, and all other proceedings in said cause required to be incorporated in the record on appeal therein by the praecipe of the appellant for said record on appeal, including said praecipe, and of the whole thereof, as appears from the original records and files of said court in my possession as such clerk; and I do further certify and return that I have annexed to said transcript and included within said pages the original citation issued in said cause.

I further certify that the costs of the transcript of record amount to the sum of Two Hundred Ten 80/100 Dollars and have been paid by the appellant.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said court at Helena, Montana, this 8th day of November, 1916.

[Seal]

GEO. W. SPROULE,
Clerk United States District Court, District of Montana. [544]

[Endorsed]: No. 2875. United States Circuit Court of Appeals for the Ninth Circuit. Charles H. Moyer, as Trustee for the Western Federation of Miners, a Voluntary Unincorporated Association of Persons with its Headquarters in the City and County of Denver, State of Colorado. Charles H. Moyer, C. E. Mahoney and Ernest Mills, as Members of the Western Federation of Miners, a Voluntary Unincorporated Association of Persons with its Headquarters in the City and County of Denver, Colorado, Appellants, vs. The Butte Miners' Union, a Corporation, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the District of Montana.

Filed November 11, 1916.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals,
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.